

DEPUTY CLERKS' PERSONNEL HANDBOOK

**United States District Court
for the
District of Maryland**

June 1998

EMERGENCY NOTIFICATION

In the event of a life threatening situation, the employee should immediately contact:

Baltimore Division

EMERGENCY - 911, OR

BALTIMORE CITY AMBULANCE - (410) 396-3100

If an ambulance has been called, the employee should immediately call the Court Security Office on Ext. 2-3801, so that they may assist the paramedics in responding promptly to the area where needed. The employee should then contact the Clerk of Court and inform him of the situation.

UNITED STATES MARSHAL - EXT. 2-2220.

The United States Marshal Service has an emergency response telephone number and will respond to a medical emergency as well as a non-medical emergency.

COURT SECURITY OFFICE - EXT. 2-3801.

The Court Security Office personnel in the lobby of the building will immediately respond when called.

Greenbelt Division

911, OR

UNITED STATES MARSHAL - (301) 344-8400

COURT SECURITY OFFICE - (301) 344-8424

In the absence of a United States Marshal or Court Security Officer, an employee should immediately go to the first floor of the building where the ambulance or emergency vehicle will arrive so that he/she may assist the emergency response team in promptly directing them to the area where needed. The employee should then contact the Deputy in Charge and inform him/her of the situation.

FOREWORD

This handbook has been developed to assist all employees of the court in understanding their roles and responsibilities as members of the United States District Court for the District of Maryland. The policies and procedures set forth within this handbook are intended to ensure that the highest level of service is rendered to the public, the bar, and the court, and that the court's administrative practices are documented, published, and uniformly administered.

This handbook is subject to updates, Administrative Office changes, and other office policy changes. It is each deputy's responsibility to incorporate and become familiar with subsequent changes that are issued. Each deputy is responsible for checking with management regarding possible changes that may have been made to the handbook's contents but have yet to be formally released.

Frank L. Monge, Clerk

ATTITUDE

by
Charles Swindoll

“The longer I live, the more I realize the impact of attitude on life. Attitude, to me, is more important than facts. It is more important than the past, than education, than money, than circumstances, than failures, than successes, than what other people think or say or do. It is more important than appearance, giftedness or skill. It will make or break a company...a church...a home. The remarkable thing is we have a choice every day regarding the attitude we will embrace for that day. We cannot change our past...we cannot change the fact that people will act in a certain way. We cannot change the inevitable. The only thing we can do is play on the one string we have, and that is our attitude...I am convinced that life is 10% what happens to me and 90% how I react to it. And so it is with you...we are in charge of our Attitudes.”

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PART I.

**THE MISSION AND FUNCTION OF THE OFFICE
OF THE CLERK OF THE UNITED STATES
DISTRICT COURT**

PART I

THE MISSION AND FUNCTION OF THE OFFICE OF THE CLERK OF THE UNITED STATES DISTRICT COURT

A. Mission

In general terms, the mission of the Clerk's office of the United States District Court is to render effective and courteous service to the following groups: (1) the District Judges, Magistrate Judges and their staffs, (2) the bar, (3) litigants, (4) jurors, (5) the public at large, (6) other government agencies, and (7) other courts.

B. Responsibilities

1. The Clerk, with the assistance of deputy clerks, must perform all of the statutory duties required of the office.
2. The Clerk manages the administrative activities of the district court. In carrying out these responsibilities, the Clerk uses modern case management principles and techniques, adjusting them to the needs of the Court. These same principles and techniques also apply to space and facilities management, records management, forms control, fiscal and accounting controls, personnel management, and procurement of services and supplies.
3. The Clerk assists the Court in maintaining liaison with other court related agencies, bar associations, civic groups, and various public and private groups conducting business with or having a reasonable interest in the administration of the Court.
4. The Clerk serves the Court in a staff capacity to conduct special studies, obtain special statistical data, and provide such other information as required for effective management of the Court.
5. The Clerk regularly provides the Court with timely, accurate and comprehensive data showing the status of the Court's calendar.
6. The Clerk should establish a comprehensive career development program for deputy clerks. The program should include systematic procedures for recruitment, in-service training, cross-training, performance appraisal and promotion.

C. Functions

To achieve its mission and carry out its responsibilities, a Clerk's office must perform a variety of functions. Such functions include but are not limited to:

1. Processing Litigation

- a. Receive and record all pleadings and other papers presented to the court.
- b. Assign cases under a prescribed plan.
- c. Prepare and maintain case files.
- d. Maintain the official court records for each case.
- e. Perform quasi-judicial functions including taxation of costs and entry of defaults.
- f. Calendaring and scheduling.
 - (1) Notify parties of all scheduled events when required.
 - (2) Prepare and maintain case status reports for all pending cases.
 - (3) Analyze case status reports and identify apparent problem areas.
 - (4) Send Notice of Contemplated Dismissal for Non-Prosecution and Notice of Intent to Dismiss pursuant to Local Rule 103.8.
 - (5) Provide and coordinate courtroom service to each judge (both personnel and space/equipment services).
- g. Provide notice of entry of orders and decisions.
- h. Provide copies of documents (and collect fee for same where required) and certify or exemplify same as requested.
- i. Provide access to case files and dockets.
- j. Provide information by telephone, letter, or certificate of search on matters on file in accordance with guidelines or office policy.
- k. Coordinate the transfer of cases.
- l. Issue process pursuant to law and rule.
- m. Maintain a record of all money judgments, naturalization and other fees; maintain a record of all fees paid to all professionals; maintain records of all Registry money and sealed matters.
- n. Prepare records on appeal and transmit them to U.S. Court of Appeals.

2. Statistical Reporting

- a. Prepare periodic reports showing, for each judge, the number of cases assigned, transferred, terminated and pending.
- b. Prepare reports showing trends in the volume and nature of cases filed in the district and in the divisions of the district.
- c. Prepare statistical reports of court's workload.
- d. Prepare statistical reports on case filings and terminations.
- e. Prepare statistical reports on trials and hearings.
- f. Prepare statistical reports on jury uses and racial diversity.

3. Fiscal Services

- a. Prepare and manage the district court's budget.
- b. Perform the accounting for monies paid into the court.
- c. Perform the accounting for monies disbursed by the court.
- d. Maintain and account for inventory of non-consumable furnishings and equipment.
- e. Prepare monthly reports on financial operations of the court.

4. Space & Facilities

- a. Serve as liaison on matters involving construction and renovation of space and facilities.
- b. Serve as liaison on purchase of furniture for the court.

5. Personnel

- a. Recruit personnel for the office of the Clerk.
- b. Provide orientation and training for all deputy clerks in the various functions and duty assignments of the Clerk's office.
- c. Provide for evaluation of performance of employees in the office of the Clerk.

- d. Recommend promotions and awards or disciplinary actions as appropriate.
 - e. Process and maintain records and information on employee benefits such as health insurance and retirement, employee assistance program, EEO procedures, etc.
 - f. Maintain time and attendance records.
 - g. Maintain payroll records and distribute pay statements.
6. Other Services
- a. Serve as secretary to the Court at periodic conferences.
 - b. Serve as liaison for preparation of Naturalization Hearings.
 - c. Identify, summon and assemble jurors.
 - d. Process and qualify attorneys for admission into the bar of the court.
 - e. Assist in drafting of new or revised local rules or standing orders.
 - f. Provide support to visiting judges.
 - g. Participate in pilot projects designed to improve the administration of cases.
 - h. Provide document reproduction, records distribution and messenger services.
 - i. Provide service and facilities to public and private agencies as required.
 - j. Conduct tours and lectures for public, student and civic organizations.
 - k. Prepare and maintain system for controlling transcript tapes and processing transcript requests.
 - l. Participate in such long and short-range planning as necessary to meet the needs of the court.
 - m. Purchase supplies and equipment for the court.

D. Organization

To accomplish its mission and carry out its responsibilities effectively, the Clerk's office must have an organizational structure which will facilitate the achievement of its objectives in a highly flexible

fashion.

The Clerk's office must be resilient enough to adapt to unique requirements of the court. Whatever else each Clerk's job may be, the primary function of the Clerk's office is to provide the court the best possible service to enable the judges to dispose of cases and proceedings. Some of the variables that affect organizational structure are: how the court and/or Clerk view the functions of the Clerk's office; the size of the court in terms of judges and the caseload; and whether the court has single or multiple divisions.

Needless to say, the organizational structures for the court may change over time. However, the same primary functions must be performed and the same management principles applied.

PART II.

WORKING HOURS, PAY AND BENEFITS

PART II

WORKING HOURS, PAY AND BENEFITS

A. Working Hours

The normal work week is 40 hours. In order to have adequate staff available during office hours and to fulfill the eight hour work day, all employees, particularly courtroom deputies and electronic operators, must adjust their hours according to court schedules. The Clerk's office is open to the public between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday for regular business. However, pursuant to F.R.Civ.P. 77, district courts are always deemed open for the purpose of filing any pleading or other proper paper. For this reason, if circumstances warrant, deputies may be called outside of regularly scheduled business hours for the purpose of receiving an instrument for filing.

B. Lunch Period

A lunch period of one hour is allowed daily. A staggered schedule is required to ensure that the office is adequately staffed at all times.

With good reason and advance approval of your supervisor and provided there is adequate coverage for your section, you may occasionally take additional time on annual, administrative or compensatory leave in order to take a longer lunch break.

C. Leave

The various kinds of leave available and leave policies and procedures are covered in detail in *Appendix #3*. Employees are responsible for becoming familiar with the leave policies and procedures and for knowing their leave balances at the time of making leave requests. Employees are also responsible for obtaining prior approval for any planned leave.

D. Unscheduled Leave

Whenever you are ill or unable to report to work because of an emergency, you are required to contact your supervisor as early as practicable, but no later than 8:00 a.m. If your supervisor is not available, leave him/her a voice-mail message that outlines the conditions causing the absence. Initial notification by voice mail is acceptable if the supervisor is unavailable; however, speaking directly with your supervisor or another supervisor at the earliest convenience is required. It is important that an employee speak directly with a supervisor so that alternative coverage may be arranged. Courtroom deputies who are assigned to a specific judge or magistrate judge must contact chambers as well. Employees are not to rely on fellow employees to forward messages concerning unscheduled leave.

Failure to follow the above procedure(s) may result in the incident being recorded as Absent Without

Leave (AWOL) as well as placement in a non-pay status. If the absence is later determined to be excusable, the time will be changed to either annual or sick leave.

You must sign an SF-71, Application for Leave, to have AWOL changed to another type of leave.

E. Punctuality

All employees are required to be at their assigned work stations, ready to begin work, promptly at the beginning of each work day according to their assigned schedule. Employees are also expected to return promptly from lunch breaks. Tardiness, not in excess of 15 minutes, may be excused by the supervisor if reasons are adequate, or handled administratively by requiring additional time to be worked, or by a charge against any compensatory time which the employee may have to his credit for previously authorized overtime worked. Where reasons are not acceptable to the supervisor, a charge of one hour will be made against annual leave, or if annual leave is not available, the employee may be placed in a non-pay status for a full hour.

F. Salary Structure

At its September 1993 meeting, the Judicial Conference approved the new Court Personnel System (CPS). Effective January 22, 1996, this system replaced the Judicial Salary Plan (JSP) for the majority of court employees, including Clerk's office staff, in the district of Maryland. The Clerk, Chief Deputy, court reporters and chambers' staff remain under the Judicial Salary Plan.

The CPS salary table consists of twelve (12) classification levels (CL). The classification level is based upon the complexity and responsibility of the position assigned. The table provides a two-part salary range for each level, divided into sixty-one (61) pay steps. Pay steps 1 through 24 constitute the developmental range; pay steps 25 through 61 constitute the full performance range. The CPS basic pay table is linked to the General Schedule in that Step 25 of the CPS table for each level is the same as Step 1 of a specific grade of the General Schedule. A copy of the current CPS salary table is attached as *Appendix #2*.

G. Retirement Systems

Civil Service Retirement System (CSRS)

This retirement system was available to newly hired federal employees from the early 1920's until December 31, 1983 when Congress created the Federal Employees Retirement System (FERS) as a result of the expansion of Social Security to federal employment beginning in 1984. Employees covered by CSRS do not pay social security and may contribute a maximum of 5% of their gross income to the Thrift Savings Plan (TSP); however, they receive no government matching on TSP contributions. All contributions to TSP are tax deferred.

If you were rehired into federal service, were previously employed under CSRS, and have less than one year break in service, you may be reinstated under that system. You also have the alternative to

elect coverage under FERS. The Administrative Office provides the re-appointed employee with the appropriate notification and election forms.

Federal Employees Retirement System (FERS)

All federal employees first hired after December 31, 1983 are automatically covered by FERS. FERS employees pay Social Security and may contribute a maximum of 10% of their gross income to TSP. FERS employees, when eligible, receive an automatic agency contribution of 1% whether or not they participate in TSP. If a FERS employee contributes to TSP, the agency matches dollar for dollar the first 3% and fifty cents on the dollar for each of 4% and 5%. As with CSRS, all contributions to TSP are tax deferred.

CSRS-Offset

Federal employees separated from service for at least one year are automatically covered by Social Security if they resume federal employment after 1983. However, those whose employment spanned at least five years of creditable service under CSRS retain rights to re-enter that retirement system. Such re-employed persons contribute combined amounts to Social Security and CSRS that equal the amount that would have been contributed to CSRS alone.

For more information on the retirement systems and Thrift Savings Plan, see your personnel specialist.

H. Cost of Living Adjustments & Locality Pay

Court employees may receive the annual general government-wide Employment Cost Index (ECI) salary adjustment (formerly referred to as the COLA) to their basic pay. Determination of the amount is made by the President and Congress for the Executive Branch and, if enacted by legislation, the judiciary pay scales are adjusted accordingly to the allowed percentage.

Additionally, court employees may be eligible for a locality-based comparability adjustment (locality pay) that is added on top of the employee's basic pay, resulting in an adjusted pay rate. Employees in the District of Maryland are covered by the "Washington-Baltimore, DC-MD-VA-WV-CMSA" locality pay differential.

I. Probationary Status

The policy of this office is for all newly appointed employees to be placed on a six-month "probationary period." This period is the time usually required for a new deputy clerk to learn his or her job and fulfill the standards set for this office and the particular position. During this time, the work performance will be closely monitored and extra supervision and assistance will be available, as needed. An initial review will be done after three months, and, at any time during the six-month period, or thereafter, an employee's work may be evaluated to determine whether performance has been satisfactory and whether employment will continue.

At any time during the three or six-month period, or thereafter, should an employee not meet the standards, he or she may be subject to discharge. However, the formal notice of adverse action procedures set out in *Appendix #8* do not apply during the three or six-month probationary period. Persons appointed to a different position or to workleader and supervisory positions are subject to the provisions of this sub-section, except the probationary period is three months. At the end of the three months, the Clerk of Court may extend the probationary appointment.

J. Performance Ratings/Evaluations/Within-Level Increases

Upon entering on duty, employees are informed of what they are expected to do and how well they are expected to accomplish these duties. New employees who have not attained an acceptable rating at the end of six months will not be continued in employment with the Clerk's office. Written standards will be provided for those deputies whose jobs have duties that are stable, repetitive and subject to quantitative and qualitative measurements.

Employees are evaluated by their immediate supervisors for purposes of within level increases. Under CPS, Steps 1 through 24 of each CL designate the Developmental Range and employees are evaluated on progress toward full performance after each 13 pay periods. There are four choices of level of progress and accompanying number of steps in the Developmental Range:

Unacceptable Progress:	0 pay steps
Limited Rate of Progress:	2 to 5 pay steps
Expected Rate of Progress:	6 pay steps (Default)
Exceeds Expected Rate of Progress:	7 to 18 pay steps

Regardless of the learning speed, Step 25 cannot be exceeded.

Progression through the Full Performance Range, Steps 25 through 61, is based on an acceptable level of performance and the passage of 52 weeks since the last equivalent pay increase. Employees in Steps 25 through 36 receive 4 steps, in Steps 37 through 54 receive 2 steps, and in Steps 55 through 60 receive 1 step if their performance is "at an acceptable level." If performance is "not at an acceptable level", the step increase is denied.

The Administrative Office requires the court to submit the "Within-Level Increase Certification Form For The Judiciary" (AO 353) at least two periods prior to the effective date **only when the employee's performance is other than** "at the expected rate of progress" for those employees in the Developmental Range, or "at an acceptable level" for those in the Full Performance Range. Otherwise, the form is kept in the working personnel file of the employee. In either instance, the employee shall receive a copy.

Leave Without Pay (LWOP) does not affect the waiting period for employees progressing through the Developmental Range; however, the 52 week waiting period for Full Performance Range employees is affected by LWOP if more than two weeks tour of duty (80 hours for a full-time

employee) is recorded during the 52 weeks.

The rating period will begin for a new employee, a transferred employee, or an promoted employee on the date of entry in the new position.

K. Quality Step Increases and Longevity Bonus Program

In 1976, the Judicial Conference of the United States adopted the Quality Step Increase Program (QSI) to reward superior performance. However, the QSI program has been frozen since December 17, 1992. If the freeze is lifted by the Executive Committee, the QSI program will continue under CPS. The QSI provides an additional within-grade increase to be awarded for sustained superior performance in all the major elements of the individual's job. To qualify for a QSI, the following requirements must be met:

- (1) One year with the court and in present level;
- (2) Must be in Full Performance Range;
- (3) Efficiency rating of acceptable for most recent rating period;
- (4) Limited to one QSI every 52 weeks, with the recipient performing 52 continuous weeks of outstanding service in the same classification level with an expectation that the level of performance will continue;
- (5) Recommendation by immediate supervisor;
- (6) Approval by the Clerk, with the pay-setting official having the option of granting 1, 2, 3 or 4 steps. The automated system will have a standard default of 4 steps unless the pay-setting official requests a lower number.

The Longevity Bonus Program remains unchanged in CPS. Basic eligibility is met when the employee has been employed for five years in the judiciary, has an acceptable or above performance rating, and has spent 52 continuous weeks in the top step of the grade or level. If recommended and approved, the eligible employee is paid a lump sum of 1% of the annual salary, as it is under JSP.

L. Promotions

A CPS promotion is a personnel action that moves an employee from one classification level to a higher level. To set pay for a promotion action, pay is increased to the lowest pay step for the level of promotion that will provide an increase of a least 6% above the pay immediately prior to the promotion.

Promotions are not automatic. The following criteria must be met:

- (1) The position of the incumbent must have been classified to include at least one classification level higher than the incumbent's present CL;
- (2) The incumbent's most recent efficiency rating must have a rating of acceptable;
- (3) The incumbent must be recommended for a promotion by his or her immediate

- supervisor;
- (4) The Clerk must find the incumbent qualified for the promotion under CPS qualification standards;
 - (5) The Clerk must forward a request, in writing, to the Human Resources Division requesting the promotion; and
 - (6) There must be sufficient appropriated funds on hand to fund the promotion.

Promotions within a compensation category depend upon the extent to which the incumbent increases his/her qualifications and demonstrates the personal growth necessary to carry out the increased responsibilities of higher level positions. In addition to meeting the CPS qualification standards, an incumbent must demonstrate that he or she is performing a materially greater quantity of work and that his or her work is of superior quality.

CPS Qualification Standards are attached as *Appendix #2*.

M. Promotion-Reassignment

A promotion-reassignment is the change of an employee to a position with a different primary function and a higher compensation category. However, a change in job duties does not necessarily mean an automatic promotion. Promotion-reassignments are made on the basis of an employee's experience, training and demonstrated ability to perform duties at a higher level.

N. Demotions

Demotions may occur for various reasons, and the method of setting the pay varies depending upon the reason for a demotion. Demotions may be requested in writing by the Clerk for unacceptable performance, unacceptable conduct, and inability to perform due to medical or health reasons. They may be done voluntarily for the employee's own benefit, or involuntarily for reasons beyond the control of the employee.

O. Pay Periods, Direct Deposit and Pay Checks, and Employee Earning Statements

Court employees are on a bi-weekly pay period with pay issued the first Friday following the end of each pay period. The Federal Financial Management Reform Act of 1994 requires direct deposit of federal wage, salary, and retirement payments by electronic funds transfer (EFT) for recipients who begin to receive such payments on or after January 1, 1995. A completed form, SF 1199A, must be completed by the employee and the financial institution and submitted to the personnel specialist. In addition to the direct deposit of a full pay check, each employee is allowed a maximum of two allotments (partial deposits to separate accounts and/or institutions).

If your entrance on duty date is the first Monday of a pay period, you will usually receive your first pay on the Friday of your third week. Thereafter, pay will be issued every other Friday. If your entrance on duty date was in the middle of a pay period, that is within nine days before pay is issued,

your first pay will probably be issued on the Friday of your fourth week; however, it will be a check for wages covering three weeks.

An "Employee Earnings Statement" is issued to each deputy itemizing the various deductions made from your pay. The pay statement should be examined for accuracy. Any questions concerning your pay or deductions should be directed to the personnel specialist.

P. Credit Union

Baltimore employees may apply for membership to the First Financial Federal Credit Union located at the Fallon Federal Building, 31 Hopkins Plaza, Suite 1013, Baltimore, Maryland 21201. Greenbelt employees may contact the Greenbelt Federal Credit Union, 112 Center Way, Greenbelt, Maryland 20770. Banking hours are conducted Monday through Friday, 8:30 a.m. to 4:30 p.m. Features such as Visa lower interest rates, higher dividends on savings and checking accounts, free checks when accompanied by direct deposit as well as other services are extended to federal employees.

Q. Health Benefits

Among the benefits of permanent, full-time employment with this office is a choice of several health plans and various options within each plan.

New employees will receive pamphlets containing information on each program available together with the forms to record their selection and enrollment in the plan of their choice. During periods of "open season", employees have the option of remaining with their chosen plan or changing to a different plan.

R. Employee Assistance Program

The Administrative Office has entered into an interagency agreement with the U.S. Public Health Service to provide Employee Assistance Program (EAP) services for employees of the Federal judiciary. Counseling will be provided for a personal problem which may be affecting an individual's work performance, such as stress, anxiety, family problems, alcohol or other substance abuse, financial difficulties, etc.

The services provided are confidential and short term counseling is provided at no cost to the individual (longer term specialized counseling may be provided through the employee's health insurance program, and any additional costs would be the responsibility of the employee).

Supervisors may refer employees to the counselors if they believe that personal problems may be impacting on work performance, or individuals may avail themselves of the services voluntarily, if they find that dealing with a particular problem has become severely burdensome.

A deputy may call the Employee Assistance Program directly at 1-800-222-0364.

S. Work Injury Benefits

Each deputy is covered by the provisions of the Federal Employees' Compensation Act, 5 U.S.C. § 1801, allowing compensation for injuries received in the performance of your duties. You, or someone on your behalf, must give written notice, within 48 hours, to your supervisor or the Clerk of any injury incurred during the performance of your duties. Failure to give notice may result in compensation being disallowed in the case of prolonged disability arising out of the accident. This notice is given on Form CA-1 or CA-2, a copy of which may be obtained from the personnel specialist. Any questions concerning work injury benefits should be directed to the personnel specialist.

T. Life Insurance Benefits

The Federal Employees' Group Life Insurance Program (FEGLI) provides for term insurance with optional additional insurance for permanent employees who are covered by the basic life insurance program. Unless excluded by law or regulation, employees are automatically covered by Basic Life insurance the day they enter on duty in a pay status and premiums are automatically withheld from an employee's pay unless they waive life insurance in its entirety within the first pay period after their entrance on duty. If the waiver is received after the first pay period, premiums will be deducted (for basic coverage) through the end of the pay period in which a waiver is received. No refunds of premiums will be made. Employees are covered by optional insurance only if they so elect by using the form available (SF 2817) from the personnel specialist.

If an employee has ever filed a Waiver of Life Insurance (FEGLI) with the federal government, that waiver will remain in existence through his/her federal career, except under special circumstances.

In addition to FEGLI, Worldwide Assurance for Employees of Public Agencies (WAEPA) provides term group life insurance to federal employees. See the personnel specialist for information on this alternative.

U. Holidays

The following official public holidays for Federal court employees are observed:

HOLIDAY	DATE
New Year's Day	January 1
Birthday of Martin Luther King, Jr.	Third Monday in January
Washington's Birthday	Third Monday in February

Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday After Thanksgiving Day	Fourth Friday in November
Christmas Day	December 25

In accordance with 5 U.S.C. § 6103, whenever a holiday occurs on Sunday, the following Monday is treated as a holiday for leave purposes, and whenever a holiday occurs on Saturday, the Friday immediately before is treated as the legal holiday.

V. Savings Bonds

You may purchase savings bonds through the payroll deduction plan. Forms for this purpose are available from the personnel specialist.

W. Identification Cards

All employees will be given a picture identification card. This card, and all building and office keys, must be returned upon termination of employment with the Court. The final paycheck may be withheld if these items are not turned in.

X. Building Access

All employees will be given a key or key card for access to the office. Security requirements must be adhered to in the use and care of access instruments. The key or key card must be returned upon termination of employment.

PART III.

EMPLOYEE STANDARDS FOR PERFORMANCE

PART III

EMPLOYEE STANDARDS FOR PERFORMANCE

A. Performance of Duty

Continued employment and advancement within the court requires each deputy to comply with the standards for performance established for this office. The following list constitutes areas where discipline of an employee of this office would be valid:

1. Abandonment of position
2. Absence from duty without approved leave
3. Excessive tardiness
4. Abuse of leave privileges
5. Below standard work performance
6. Discourteous treatment of the public, members of the bar, or of other employees
7. Use of unauthorized drugs, hallucinogens, marijuana, or drinking intoxicating beverages or being under their influence during working hours or while otherwise performing official duties.
8. Fraud in securing appointment or promotion
9. Improper political activity or violation of the Hatch Act
10. Infringement of personal affairs on office business, including excessive use of the telephone for personal reasons
11. Insubordination
12. Misuse of federal property, funds or records
13. Neglect of duty
14. Unauthorized outside employment

15. Violation of established office rules and procedures
16. Acts of sexual harassment
17. Discrimination based on race, sex, religion, or national origin
18. Willful deceit
19. Other acts which are incompatible with or reflect discredit upon the Court

This list does not exhaust all possible grounds for disciplinary action, nor does it imply that the office is obligated to take formal disciplinary action if an employee commits any of these offenses. It merely represents the kinds of offenses for which action may be taken. The following is a list of some of the types of disciplinary actions that may be taken:

1. Warning - Counseling
2. Official Reprimand
3. Written imposition of probation period
4. Suspension without pay
5. Reassignment of position or demotion in grade
6. Discharge
7. Submission of the matter to prosecuting authority for consideration of possible criminal sanctions

B. Personal Conduct

During your employment with this office, you will have contact with many people. You are a representative of the Court and of this office and you are expected to do your best to maintain the good image of the Court and of yourself. You are expected to always be courteous and professional.

If you are unable to assist a waiting individual immediately, be sure that you have acknowledged his or her presence and given him or her some indication that assistance will be forthcoming.

Remember that the people you deal with, and their problems, are not impositions upon your time. You are here to render service to the public unless a request is made which conflicts with the law or office policy.

If you are faced with an unpleasant situation or unreasonable requests are made, immediately refer the matter to your supervisor or someone in authority.

C. Courtesy

Courtesy is an expression of respect. All employees of this office are expected to maintain utmost courtesy when dealing with the public. Any violation of this policy may result in disciplinary action.

Courtesy is also expected between employees in the performance of their duties. No employee should speak in a derogatory manner of another person or be critical of acts or performance of other employees or officers of the Court, including attorneys. If you feel someone is performing in an improper manner, refer the matter to your supervisor, the Chief Deputy, or to the Clerk.

Should you believe that any direction or instruction given to you by a supervisor is improper or unjust, you have the right to call the supervisor's attention to the matter in a respectful manner. If you believe the matter warrants being brought to the attention of the Clerk, you should feel free to do so.

D. Telephone Courtesy

Courtesy and helpfulness should be maintained not only in personal contacts with the bar and public, but also over the telephone. Answering the telephone should not be viewed as an intrusion on your time but rather as a part of your duties.

The telephone should be answered in a manner which clearly identifies the Court and the party answering the call. One suggestion is as follows:

U.S. District Court, Mr./Ms. _____
How may I help you?

There are state court clerk's offices which the general public often intends to call, but mistakenly is directed to our office. For this reason, it is important to include "U.S." or "United States" when identifying this office as the federal District Court Clerk's Office. This saves time for the party calling as well as for us.

The following is a summary of preferred telephone manners:

1. Identify your office if you are the caller and state your business clearly. Identify yourself if a call is referred to you. Identify the office if you are answering the phone for the office.
2. Clarify by using the phone correctly and speaking distinctly, using your natural

voice.

3. Personalize your calls by using names and projecting a feeling of genuine warmth, yet remaining businesslike.
4. Listen to the mood of your caller as well as to his/her message. Give him or her your undivided attention.
5. Take notes, if necessary, including the caller's name and all pertinent information.
6. Repeat messages and instructions to let the other person know that you have understood completely.
7. Attend to the needs of the caller. Do not leave him/her on "hold" without continuing to make contact to let him/her know you are attending to his/her call. If it will take more than a minute or two to obtain the information sought, ask for the caller's number and call him/her back. Be sure to attend to the call back as quickly as possible.
8. Use the magic words of common courtesy: "please," "I'm sorry," and "thank you." All business conversations should end on a pleasant note. On the phone, last impressions are lasting impressions.
9. Remember, when you're on the phone for the Court, you are the Court to the person on the other end of the line.

If a caller becomes unpleasant or argumentative, refer the call to your supervisor.

When transferring a call, advise the caller that the call is being transferred and to which extension number. Be sure that the party to whom the call is being transferred is able to assist the caller. It is very irritating to a caller to be transferred from one person to another, to another.

E. Personal Use of Telephones

Government telephones should only be used in connection with your official duties. Incoming personal calls of an emergency nature may always be accepted. All other incoming calls of a personal nature tie up government equipment and impose a hardship upon the deputy answering telephones. Calls from immediate family members for other than emergencies should be limited in frequency and duration; you should discourage your friends and acquaintances from making this type of call and ask them instead to call you at your residence.

F. Outside Employment

Outside employment is permissible only insofar as it does not interfere in any way with your functioning as an employee of this office, and would in no way pose a possible embarrassment or conflict of interest to this office or to the Court.

While each instance of outside employment will be considered individually, it is the policy of this office that employment with an attorney, certified proceedings reporter or transcriber for the same, bondsman, or process server, is the type of employment that could pose a conflict of interest and which might create possible embarrassment to this office and to the Court. Deputies considering employment in these areas must notify the Clerk of this possibility prior to accepting a job offer for a determination of conflict potential.

You must make known to the Clerk any outside employment.

G. Giving Name to Public

On occasion, a member of the public will ask a deputy clerk for his/her name, either in a telephone or personal conversation. It is the policy of this office that you give your name if it is requested. If the request for your name arises out of some problem you had with the person, you are requested to advise your supervisor immediately.

Under no circumstances should you engage in an unpleasant exchange with a member of the bar or public. If you are experiencing a difficult time with someone on the telephone or at the counter, explain to that person that you are turning the matter over to your superior and excuse yourself; the problem should be immediately presented to your supervisor, Chief Deputy or the Clerk.

H. Address of Employee

You are required to keep on file with the Clerk at all times your current address, telephone number and a person to notify in case of emergency. If there is a change in any of these three items, it is your responsibility to notify the Clerk.

I. Resignations

If you intend to resign from your position for any reason, at least two weeks notice is required. Your resignation should be in writing, stating your reasons for resigning. This is important if inquiries are received at a later date about you from a prospective employer. Prior to your departure, an exit interview will be scheduled.

Any employee who anticipates resigning should notify his/her supervisor as soon as the decision is made. This enables the supervisor to plan for training or recruitment of a replacement. An employee will never be penalized because he or she announces an intention to resign.

No pay will be given for any accrued compensatory time or sick leave. If you have accrued

compensatory leave, you should arrange to take it prior to the effective date of your resignation.

If you are leaving federal service, you will be paid at your regular salary for that amount of unused annual leave brought forward from the previous year (not to exceed 240 hours), plus the amount of annual leave earned and unused during the leave year in which separation occurs.

If you are not resigning to transfer to another government agency where you will be covered by civil service retirement, you may request a refund of those amounts paid into civil service retirement.

If FERS employees leave Federal employment, all social security deposits will remain in their social security account. As a FERS employee, you may withdraw FERS contributions upon leaving Federal employment. However, if you do, you will not be eligible to receive benefits based on service covered by the refund. There is no provision in law for the re-deposit of FERS contributions that have been refunded.

J. Personal Appearance

Each deputy should remember that people can judge you and the entire office by your appearance. When you interviewed for a position with the Clerk's Office, you worked at creating a favorable impression in how you appeared and presented yourself. The effort that was made to secure a position in this office is expected to be continued in both areas throughout your tenure with the court.

Employees should remember that this is a business office with public contact. Suitable businesslike attire is required. Extremes of fashion and style should be avoided. Casual clothing, such as blue jeans, sweat suits, tank tops, bermuda shorts or shorts of various types and tee shirts will not be permitted. Men are expected to wear a suitable dress shirt and tie when not wearing the alternate attire approved by the Court. In instances where they will be in the courtroom, a sports coat or suit jacket is required. Women are expected to wear suitable office attire.

It is not the intent of the Clerk to dictate style, fashion or a rigid dress code policy. The expectation for work attire is simply geared toward what is typically worn by employees within a professional office environment. As members of the federal judiciary, an institution that the public generally holds to a higher standard, each deputy should strive toward a professional appearance to the best of their ability.

K. Personal Gifts and Gratuities

It is contrary to the policy of the Court for any employee to accept gifts or gratuities, and pursuant to Title 18 U.S.C. § 201, it may be unlawful to do so.

L. Personal Use of Government Envelopes

Title 18, U.S.C. § 1719 provides as follows:

"Whoever makes use of any official envelope, label, or endorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package or other matter in the mail, shall be fined not more than \$300."

M. Practice of Law

Title 28, U.S.C. § 955 provides as follows:

"The Clerk of each court and his deputies and assistants, shall not practice law in any court of the United States."

This does not, however, preclude answering questions concerning procedures. One of the principal obligations of the Clerk is to answer these types of questions. We are charged with the responsibility to be aware of and familiar with the established procedures and requirements of this Court.

N. Recommending Attorneys, Reporters or Bondsmen

No employee shall suggest or recommend to any member of the public, the name or names of any person, firm or company as attorney, reporter, surety or bondsman. This prohibition does not extend to pro bono representatives. Violation of this rule may be cause for disciplinary action.

O. Confidentiality of Information

Documents filed of record with the Clerk in cases on the docket of the court are public record unless sealed pursuant to statute, rules or court order.

Additionally, employees often are privy to information which could be highly sensitive or damaging if released prematurely to the bar or public. The decisions rendered by the Court often have a far-reaching effect on business, government, and the lives and property of individual litigants, as well as others. Proposed orders and opinions and other documents of similar nature are not for public information.

P. Statutes Concerning Removing, Altering, Destroying Public Records

Title 18, U.S.C. §§ 2071(a) and (b) provides as follows:

- (a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes or carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or any public office, or with any judicial or public officer of the United States, shall be fined not more than \$2,000, or imprisoned not more than three years, or both.

- (b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully *conceals*, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined not more than \$2,000, or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States.

During the period of employment in the office of the Clerk, deputies will constantly be using and having custody of the public records on file in this office. They are advised that it is a felony to conceal, remove, mutilate, obliterate or destroy, or to attempt to do so to these records, or to conceal knowledge of such action by other persons.

Q. Political Activities

The Judicial Conference at its September, 1943 session adopted the following resolution applicable to personnel of the Courts:

Whereas with rare exceptions the officers and employees of the federal courts have kept free from political activities during their terms of service, but it seems desirable to guard against deviations from this course, and for that purpose to recommend a standard;

Therefore be it resolved, that it is the sense of the Judicial Conference that it is incompatible with the proper service of the federal judiciary for its officers or employees to become candidates for political office or participate in other political activities of a kind forbidden to employees of the Executive Branch of the Government by the Hatch Act 18 U.S.C. 61(h).*

*The provisions of former § 61(h) of 18 U.S.C. now appear in 5 U.S.C. § 7324.

While the Hatch Act is not per se applicable to the Judicial Branch, it has been adopted in principle by the Conference. The penalty for violation of this provision in the Executive Branch is removal from the position which one occupies and denial of appropriated funds for the salary of the individual. The Office of Personnel Management has been charged with the general administration of this provision of the Hatch Act, which essentially adopted the provisions of the previously existing Civil Service Commission rule on the subject.

The prohibition against taking an active part in political management or political campaigns is construed by the Office of Personnel Management and the Department of Justice to prevent persons subject to the Act from assuming general political leadership or from becoming publicly identified with any political movement, party, or faction, or with the success or failure of a candidate.

The purpose of the Act was not to limit a federal employee's right to demonstrate political support, but to protect the employee against political reprisals.

The Clerk's Division of the Administrative Office of the U.S. Courts spelled out the permissible and prohibited activities of the employees in the Judiciary (exclusive of judges, who are held to a stricter code of conduct) in its Management Bulletin of April 1980, Volume 26. The pertinent part of this bulletin is attached as *Appendix #4*.

R. Code of Conduct

On September 19, 1995, the Judicial Conference of the United States adopted a Code of Conduct for Judicial Employees of United States Courts which applies to all clerks of court and deputy clerks of court. New employees should arrange their affairs as soon as reasonably possible to comply with the Code of Conduct and should do so in any event within the period of one year.

A copy of the Code of Conduct is included as *Appendix #5*.

S. Confidential Employee Information

There are instances when telephone inquiries are made concerning employees' employment status with this office. These inquiries are generally made following an employee's application for a loan or in connection with the establishment of a general credit rating. All such inquiries are to be referred to the personnel specialist.

For your protection, the only information that will be given by this office pursuant to a telephone request will be to verify beginning and ending dates of employment. If the person making the inquiry requests any additional information such as salary, etc., the caller will be instructed to make inquiry in writing. The only exception is where you have made a statement as to the amount of your salary and we are asked to verify the accuracy of your representation.

To assist the Clerk's Office in responding to these matters, it is requested that you notify the personnel specialist in advance if you are aware that an inquiry will be made.

T. Equal Employment Opportunity Plan and Model Employment Dispute Resolution Plan

At its September 1986 session, the Judicial Conference of the United States adopted revisions to the Judiciary's Model Equal Employment Opportunity Plan with regard to the selection and promotion of employees. The Judges of the District of Maryland on March 20, 1987 adopted this model plan as the Equal Employment Opportunity Plan for the District of Maryland. A copy of the Plan is attached as *Appendix #6*.

In order to provide rights and protections to employees of the U.S. courts, the Judicial Conference

also adopted the Federal Judiciary Model Employment Dispute Resolution Plan. The Plan consists of Equal Employment Opportunity and Anti-Discrimination Rights, Family & Medical Leave Rights, Worker Adjustment and Retraining Notification Rights, Employment and Reemployment Rights of Members of the Uniformed Services, Occupational Safety and Health Protections, Polygraph Tests, and Dispute Resolution Procedures.

U. Grievance Procedure

A grievance is a complaint of an employee or employees regarding personnel practices, working conditions and facilities, working relationships among employees or supervisor-employee relationships, wherein it is alleged that there has been unfair or inappropriate treatment accorded to the person or persons aggrieved. It does not include complaints of discrimination covered under the procedure referred to in section “T” above. A copy of the Grievance Procedures for this district is attached as *Appendix #7*.

APPENDIX #1

JUDICIARY OVERVIEW

OVERVIEW

The federal court system's structure is similar to a pyramid. At the apex stands the Supreme Court of the United States, the highest court in the country. On the next level are the United States courts of appeals in 12 circuits and the United States Court of Appeals for the Federal Circuit. On the next level stand the United States district courts, including bankruptcy courts, and various national courts, e.g., the United States Court of International Trade, the United States Tax Court, and the United States Claims Court.

The pyramidal organization of the courts serves two purposes. First, the courts of appeals can review the decisions of the trial courts. Secondly, the Supreme Court can assure uniformity of decision by reviewing cases in which Constitutional issues have been decided, or in which two or more lower court have reached different results.

THE SUPREME COURT OF THE UNITED STATES

The Supreme Court consists of 9 justices and is the court of final review for all appeals from the federal courts, and the final arbiter of the meaning and application of the constitution and the statutes enacted by Congress in furtherance of the constitution. The Supreme Court has original jurisdiction over certain types of cases most of which involve a state as a party to the action. The vast majority of cases decided by the Supreme Court, however, come from the lower courts, either by writ of certiorari or appeal. The Supreme Court also hears appeals from the highest court of each state which reach the Court by writ of certiorari pursuant to Title 28 United States Code, Section 1257.

COURTS OF APPEALS

The intermediate appellate courts in the United States judicial system are the courts of appeals of the 13 circuits, including 12 with regional jurisdiction and the Court of Appeals for the Federal Circuit with national jurisdiction. Each circuit includes three or more states, except the District of Columbia Circuit and the Federal Circuit. The U.S. District Court for the District of Maryland is in the Fourth Circuit Court of Appeals. The courts of appeals hear appeals from all final decisions, and certain interlocutory decisions, i.e., orders issued before final judgment is entered, of district courts and from final decisions of certain federal agencies and the United States Tax Court.

JUDICIAL CONFERENCE OF THE UNITED STATES

The Judicial Conference of the United States, established by Title 28, United States Code, Section 331, is the highest administrative and policy making authority in the federal judiciary. Its broad statutory mandate is to promote the efficient, fair, expeditious, and uniform operation of the federal judicial system. There are 27 members of the Conference, including the Chief Justice of the United States who, by statute, serves as its chairman. In addition to the Chief Justice, the Conference is composed of the chief judges of the twelve circuit courts of appeals, the chief judge of the Court of Appeals for the Federal Circuit, the chief judge of the Court of International Trade, and 12 district

judges, one elected from each circuit by a majority of the circuit and district judges of the circuit. The Director of the Administrative Office of the United States Courts serves as Conference Secretary. While bankruptcy judges are not members of the Judicial Conference, they serve as members of the Judicial Conference committees. The Honorable Paul Mannes, Chief Judge of the U.S. Bankruptcy Court for the District of Maryland was the first bankruptcy judge to Chair a Judicial Conference Committee. He served as the Chair of the Bankruptcy Rules Committee from 1993 to 1996. The Conference generally meets two times a year, in March and September. Permanent committees are responsible for reporting to the full Conference on various aspects of the business of the courts.

The Judicial Conference sets policy on court administration, ranging from space and facilities and personnel to statistical reporting, and budgetary matters. It has also been delegated by statute the authority to set policy or promulgate regulations governing various aspects of judicial administration, including the appointment of bankruptcy judges, the bankruptcy administrator program, and the authorization of court reporting services. These policies of the Conference are carried out by the Administrative Office of the United States Courts. Other actions of the Conference may be less formal, offering suggestions to improve court administration, such as case management guidance, jury management suggestions, and jury management.

THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

The Administrative Office was created by the Congress in 1939 to provide administrative support and services for the federal courts. The Director of the Administrative Office is appointed by the Chief Justice of the United States. The duties of the Director of the Administrative Office include, among other things, the responsibility to prepare and submit to Congress the budget for the courts; receive reports from and provide assistance to circuit judges, district judges, bankruptcy judges, magistrate judges, the clerical staffs of the courts, the probation officers, reporters, librarians, and other court personnel; audit and disburse money for the operation and maintenance of courts; compile and publish statistics on the volume and distribution of the business in the courts; supply a professional secretariat and legal and statistical services to the Judicial Conference of the United States and its committees; conduct studies of court procedures under the direction of and for the Judicial Conference, and for other interested groups, including committees of the Congress; set the compensation of employees of the courts whose compensation is not otherwise fixed by law; regulate pay annuities to widows and surviving dependent children of judges; regulate travel of judicial personnel; provide accommodations and supplies for the courts and their clerical and administrative personnel; and establish and maintain programs for the certification and utilization of court interpreters and the provision of special interpretation services to the courts.

THE FEDERAL JUDICIAL CENTER

The Federal Judicial Center is the federal courts' agency for research and continuing education. Congress established it by statute in 1967 as a separate organization within the federal judicial system at the request of the Judicial Conference of the United States (see 28 U.S.C. §§ 620-629). Its basic policies are determined by an eight-member Board, chaired ex officio by the Chief

Justice of the United States. Its fiscal 1997 appropriation is \$17,495,000 and it has 138 permanent staff positions.

Responsibilities

The Center's mandate is "to further the development and adoption of improve judicial administration" in the courts of the United States (28 U.S.C. § 620(a)). The many specific statutory duties of the Center and its Board fall into a few broad categories.

Conducting and promoting research on federal court organization, operations, and history;

Conducting and promoting orientation and continuing education and training programs for federal judges, court employees, and others; and

Developing recommendations about the operation and study of the federal courts.

APPENDIX #2

PRIMARY QUALIFICATION STANDARDS

QUALIFICATION STANDARDS

OPERATIONAL AND ADMINISTRATIVE COURT SUPPORT POSITIONS

MANDATORY REQUIREMENTS*

The chart below shows the minimum qualifications requirements for each level within the occupational grouping. An applicant meeting the requirements and who is selected for any level would also qualify for the minimum pay rate of that level, i.e., Step 1.

CLASS. LEVEL	REQUIRED EDUCATION	REQUIRED EXPERIENCE**
CL-22	High school graduation or equivalent.	
CL-23	High school graduation or equivalent.	Two years general experience.
CL-24		One year specialized experience equivalent to work at CL-23 level.
CL-25		Two years specialized experience, including at least one year equivalent to work at CL-24 level.
CL-26		Three years specialized experience, including at least one year equivalent to work at CL-25 level.
CL-27		Three years specialized experience, including at least one year equivalent to work at CL-26 level.

*Courts can require additional qualifications, known as selective factors, such as a language requirement.

**Refer to the occupational grouping involved for permissible educational substitutions.

QUALIFICATION STANDARDS

PROFESSIONAL ADMINISTRATIVE POSITIONS

MANDATORY REQUIREMENTS*

The chart below shows the minimum qualifications requirements for each level within the occupational grouping. An applicant meeting the requirements and who is selected for any level would also qualify for the minimum pay rate of that level, i.e., Step 1.

CLASS. LEVEL	REQUIRED EDUCATION	REQUIRED EXPERIENCE**
CL-23	High school graduation or equivalent.	Three years general experience.
CL-25		One year specialized experience equivalent to work at the CL-23 level.
CL-27		Two years specialized experience, including at least one year equivalent to work at CL-25 level.
CL-28		Three years specialized experience, including at least one year equivalent to work at CL-27 level.
CL-29		Three years specialized experience, including at least one year equivalent to work at CL-28 level.
CL-30		Three years specialized experience, including at least one year equivalent to work at CL-29 level.
CL-31		Three years specialized experience, including at least one year equivalent to work at CL-30 level.

*Courts can require additional qualifications, known as selective factors, such as a language requirement.

**Refer to the occupational grouping involved for permissible educational substitutions.

SUPERVISORY AND MANAGERIAL POSITIONS

Supervisor Positions

To qualify for a supervisor position, an individual must meet the qualifications standards applicable to positions for the highest level of work effectively supervised (or in the case of a supervised unit involving more than one type of working having differing qualifications standards, the qualifications standards applicable to one of the types of work, provided that the type of work constitutes a substantial portion of the work of the unit and is not more than one level below the highest level of work effectively supervised). In addition, the specialized work experience must have included:

1. Progressively responsible administrative, technical, professional, supervisory or managerial experience that provided an opportunity to gain (a) skill in dealing with others in person-to-person work relationships, (b) the ability to exercise mature judgment, and (c) a knowledge of the basic concepts, principles, and theories of management and the ability to understand the managerial policies applicable to the court unit involved; and
2. At least one year of experience at or equivalent to the next level below the level of the position for which the individual is being considered.

Manager Positions

To qualify for a manager position, an individual must possess:

At least three years of progressively responsible administrative, technical, professional, supervisory or managerial experience that provided an opportunity to gain (a) skill in dealing with others in person-to-person work relationships, (b) the ability to exercise mature judgment, and (c) a thorough knowledge of the basic concepts, principles, and theories of management and the ability to understand the managerial policies applicable to the court unit involved, and that included at least one year of experience at or equivalent to the next level below the level of the position for which the person is being considered.

Note: More than one year of specialized experience at or equivalent to the next lower level below the position for which the applicant is being considered is qualifying for placement at salary levels above minimum, up to and including Step 25.

APPENDIX #3

LEAVE POLICIES AND PROCEDURES

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LEAVE POLICIES AND PROCEDURES

PART 1. ANNUAL LEAVE

1. DEFINITION.

Annual leave is that leave which is granted for absences from official duty occurring within regular work hours for vacation or other personal or administrative reasons.

2. GRANTING ANNUAL LEAVE FOR VACATIONS AND PERSONAL NEEDS

a. In order to safeguard their health and general well being, all employees should be encouraged to take a two-week vacation each year. Preference as to vacation time should be given on the basis of administrative needs, seniority, performance on the job, and other special circumstances. During the remainder of the year, a liberal attitude should be adopted toward permitting employees to use short periods of annual leave for family and personal needs. Annual leave may be substituted for sick leave. When substituted for sick leave, it is subject to the same restrictions as sick leave.

b. While annual leave credits are earned as a legal right, it is a matter of administrative determination when an employee may be granted leave and in what amount. Work requirements as well as equitable and considerate treatment of all employees are the determining factors in approving leave. However, the interests of the Court must take precedence over the employee's personal wishes if the approval of a request for leave would conflict with work schedules.

The approving officer has the right to approve or deny the leave request. It is each employee's right to take earned annual leave for whatever reason he/she so desires; however, the approving officer has the right to approve or deny each request based on workload considerations. Approving officers also have the right to rescind leave that has been approved if the workload of the Court cannot be met due to a personnel shortage.

c. Before making financial arrangements or deposits for any planned annual leave, employees should obtain approval from the approving officer for that planned vacation time in order to avoid the possibility of cancellation penalties.

3. ACCRUAL OF ANNUAL LEAVE

a. Accrual is based on years of service. Employees accrue annual leave on a graduated

basis according to their total years of service (civilian and military) which is potentially creditable for purposes of an annuity under the Civil Service Retirement Act and the Federal Employees' Retirement System.

- b. Rate of Accrual. Full-time employees earn annual leave as follows:

YEARS OF SERVICE	AMOUNT OF ANNUAL LEAVE EARNED FULL BIWEEKLY PAY PERIOD
Up to 3	4 hours
3 to 15	6 hours, except that the accrual for the last full biweekly pay period in the calendar year is 10 hours
15 and over	8 hours

- c. All new employees, including temporary employees under an appointment of 90 days or more, start earning leave from the date of entrance on duty. Employees whose appointments are for 90 days or less do not earn annual leave unless consecutive appointments are given.

4. CHANGE IN ACCRUAL RATE

Changes in accrual rates take effect at the beginning of the pay period following the pay period in which employees complete their third and fifteenth year of service.

5. MAXIMUM ACCUMULATION

- a. Persons employed prior to December 22, 1952, have their ceilings established at the amount accumulated and accrued up to that date. Those dropping below the ceiling are not able to return to their original ceiling. Their new ceiling established will be set at the amount remaining in the account (over 240 hours) after the reduction of the previous ceiling.
- b. Persons employed after December 22, 1952, can only carry over a maximum of 240 hours. An employee's accumulation can always be brought back to the 240 hour maximum if dropped below that level. Employees with an accumulation in excess of 240 hours at the end of the leave year will forfeit that excess. However, employees will be paid for their unused annual leave up to a maximum limit of 240 hours plus whatever annual leave they may have accumulated during the year of their departure from the court. For example: if an employee had carried over 240 hours of annual

leave from the previous year and had accumulated 20 more hours in the year of departure, they would be paid the equivalent of 260 hours of annual leave.

- c. Leave approving officials, and employees, should take positive action to ensure that annual leave is scheduled for use during the year so as to avoid situations where an employee approaches the end of the year with a significant amount of annual leave.

6. RESTORED LEAVE

- a. Leave in excess of the authorized ceiling which would normally be forfeited may be restored for the following three reasons:
 - (1) Administrative error -- a mistake in the official records.
 - (2) Exigency of public business which prevented the use of accumulated leave greater than 240 hours before the end of the leave year.
 - (3) Sickness of an employee -- extended illness when leave cannot be rescheduled -- leave must have been scheduled in advance, approved and canceled.
- b. Such restored leave must be used no later than the end of the leave year ending two years after the date of:
 - (1) Restoration of the leave forfeited through administrative error.
 - (2) Termination of the exigency of public business.
 - (3) Return to duty after the illness or the employee being certified as having become fit for duty.
- c. Restored leave which is not used within the time limit is totally forfeited.
- d. Documentation. Canceled leave must have been requested in writing (on Standard Form 71) before the beginning of the third biweekly pay period prior to the end of the leave year. The documentation must include:
 - (1) The calendar date on which the leave was approved.
 - (2) The dates of the leave and the total time requested.
 - (3) The nature of the administrative error or the reason for the cancellation of the scheduled leave. If the reason was due to the exigency of public business, the dates of the exigency and a copy of the statement declaring the emergency.

- (4) The dates on which the canceled leave was rescheduled and reapproved for use.
- (5) The dates of the rescheduled leave and the total time involved.

Restored leave records should be retained at least four years for audit purposes.

7. AVOIDING FORFEITURES

All employees will be afforded an opportunity to take annual leave which would otherwise be forfeited at the end of the leave year. The early preparation of and adherence to annual leave schedules throughout the year will permit the balancing of leave against the anticipated workload and will serve to remind employees that a certain amount of annual leave must be taken within one year to avoid forfeiture.

8. MINIMUM CHARGE

The minimum charge for annual leave will be one hour and additional charges will be in multiples thereof. Unavoidable or necessary absence of less than thirty minutes may be excused by supervisors when, in their opinion, such action is justified. However, the practice of excusing employees without a charge to leave ordinarily should be limited to non-routine or emergency absences, or when it is in the interest of the court to excuse the employee.

9. APPLICATION AND APPROVAL

Except in emergencies, all applications for annual leave shall be submitted on Standard Form 71, Application for Leave, at least 3 working days before the leave period is to begin. Whenever it is necessary to take emergency annual leave, all employees are required to notify their immediate supervisor as early as practicable, but no later than 8:00 a.m. Except in cases where travel accommodations need to be made ahead of time, annual leave requests should be given no more than two months in advance. An employee who is absent due to illness should notify his/her supervisor as early as practicable, but no later than 8:00 a.m. Advising co-workers is not an acceptable means of notification nor is having a relative or spouse call. Please refer to Part II of this handbook entitled "WORKING HOURS, PAY AND BENEFITS," Section D, page 6, as well as page 7 of this Appendix.

10. ADVANCES

It is the policy of this office not to advance unaccrued annual leave on a routine basis. In medically related situations, exceptions may be made on a case by case basis.

11. TARDINESS

Tardiness, not in excess of 15 minutes, may be excused by the appropriate supervisor for good reason or may be handled administratively by requiring additional time to be worked or by a charge against any compensatory time which the employee may have to his/her credit for previously authorized overtime. Where reasons for tardiness are not acceptable to the supervisor, a charge of one hour will be made against annual leave. If annual leave is not available, the employee will be placed in a nonpay status for a full hour. Each period of tardiness will be considered individually on a calendar day basis.

12. ABUSE OF ANNUAL LEAVE PRIVILEGES

An employee who is abusive of his/her annual leave, who is frequently tardy, or who continues to be absent repeatedly without advance approval of annual leave will be subject to disciplinary action. An employee who does not comply with the requirements for securing advance approval of annual leave and whose explanation of such infraction is not satisfactory to the supervisor, will be charged as absent without leave (AWOL) and will forfeit pay for the period for such absence.

PART 2. SICK LEAVE

1. DEFINITION

Sick leave is leave that is granted to employees for absences relating to illness or medical care. Sick leave is a privilege and may be used only under the following conditions:

- a. When an employee is incapacitated for the performance of duty because of sickness, injury, or pregnancy and confinement.
- b. For medical, dental, or optical examination or treatment.
- c. When a member of the immediate family is afflicted with a contagious disease and requires the care and attendance of the employee, or when through exposure to contagious disease, the presence of the employee at his/her post of duty would jeopardize fellow employees. "Contagious disease" is defined as a disease ruled as subject to quarantine or requiring isolation of the patient by the local health authorities having jurisdiction. Other family sickness does not qualify for paid sick leave.

However, due to the recent enactment of the Federal Employee Family Friendly Leave Act (Public Law 103-388), sick leave may also be used in circumstances outlined below:

Use of Sick Leave to Care for a Family Member and for Funerals

1. 40 hours of sick leave in any year may be used:

- a. "to give care or otherwise attend to a family member having an illness, injury or other condition which, if an employee had such a condition, would justify the use of sick leave by such an employee;" or
 - b. "for purposes relating to the death of a family member, including to make arrangements for or attend the funeral of such family member."
2. Up to an additional 64 hours of sick leave may be used in a year, "but only to the extent the use of such additional hours does not cause the amount of sick leave to the employee's credit to fall below 80 hours."

The term "family member", according to the Act, is defined as:

- 1) Spouse and parents thereof;
- 2) Children, including adopted children, and spouses thereof;
- 3) Parents;
- 4) Brothers and sisters, and spouses thereof; and
- 5) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Public Law 103-329

Sick Leave for Adoption

Employees are permitted to use sick leave for purposes relating to the adoption of a child.

Requesting Leave - With the new categories now authorized for sick leave usage, deputies should note that leave requests submitted after December 22, 1994 should contain information regarding the basis for the leave request (i.e. personal illness, family care, funeral).

Leave for Bone-Marrow or Organ Donation

Federal employees are allowed up to seven days of paid administrative leave in a calendar year to serve as a bone-marrow or organ donor. This leave is in addition to sick or annual leave.

2. ACCRUAL OF SICK LEAVE

- a. General Provisions. Sick leave accrues to an employee's credit without regard to the type of appointment, total creditable service, or completion of a qualifying period after employment. Sick leave is credited and available to employees after the first pay period of employment.
- b. Full-time Employees. Full-time employees earn and are credited with sick leave at the rate of one-half day (4 hours) for each full biweekly pay period, either at the beginning

or end of an employee's period of service.

3. MINIMUM CHARGE FOR SICK LEAVE

The minimum charge for sick leave is 1 hour, and additional charges to sick leave are in multiples thereof.

4. APPLICATION AND APPROVAL

- a. The use of sick leave is subject to approval of the appropriate supervisor. Unless the absence can be foreseen, advance written application of sick leave is not required. An employee who is absent due to illness should notify his/her supervisor as early as practicable, but no later than 8:00 a.m. If the supervisor is not available, the employee should leave him/her a voice-mail message that outlines the conditions causing the absence. Initial notification by voice mail is acceptable if the supervisor is unavailable; however, the employee is required to speak directly with his/her supervisor or another supervisor at the earliest convenience. It is important that an employee speak directly with a supervisor so that alternative coverage may be arranged. Courtroom deputies who are assigned to a specific judge or magistrate judge must contact chambers as well. Employees are not to rely on fellow employees to forward messages concerning unscheduled leave.
- b. An employee who is abusive of his/her sick leave privileges, who repeatedly ignores the requirement for giving timely notice to his/her supervisor and whose explanation of such infractions is not satisfactory to the supervisor may, at the discretion of such supervisor, be considered absent without leave (AWOL) and placed in a nonpay status for the period of such unapproved absence.
- c. Requests for sick leave for medical, dental, or optical examination or treatment must be submitted by the employee on Standard Form 71, Application for Leave, at least 3 working days prior to the beginning of the leave granting.

5. SUPPORTING EVIDENCE FOR SICK LEAVE

- a. Absences of Three Working Days or Less. Normally the employee's certification will be sufficient to support a charge to sick leave for absences of 3 working days or less.
- b. Absences of More than Three Working Days. The requirement that absences of more than 3 working days be supported by a medical certificate is at the discretion of the supervisor. The reverse of the Application for Leave form should be used for this purpose.

- c. When a Medical Certificate May be Required for Any Period of Absence. When in individual cases there is reason to believe that sick leave is being abused, a medical certificate may be required to justify the granting of sick leave. In such cases, the employee must be advised in writing that a medical certificate will be required to support any future granting of sick leave, regardless of duration. In no instance may an entire group of employees be required to submit medical certificates for all absences on sick leave merely because it is believed that a few individuals within the group are abusing the sick leave.

6. EXCESSIVE SICK LEAVE DEFINED

Employees are requested to carry over a minimum of 40 hours of sick leave for every year they have been employed by the district court. For example, if a person has 5 years of employment with the district court, he or she should have a balance of 200 hours of sick leave at the end of the fifth year.

Of course, serious illness or hospitalization may preclude an employee from carrying over 40 hours in a particular year or years. Nevertheless, employees who do not carry over 40 hours a year, without good reason, may be considered as using excessive sick leave.

7. ADVANCING SICK LEAVE

Sick leave may be advanced at the discretion of the approving authority designated by each court or court unit subject to the following conditions and limitations:

- 1) An employee whose appointment is not temporary may be advanced up to but not in excess of 15 eight-hour days (120 hours) of unearned sick leave in cases of serious disability or ailment. Sick leave may be advanced regardless of whether or not an employee has an annual leave balance and may be granted upon the employee's oral application. Upon return to duty, the employee should submit a completed and signed SF-71 and a medical certificate to the leave approving court official. The advanced sick leave is charged against subsequently earned sick leave.
- 2) An employee holding a temporary appointment which is to expire on a specified date may be advanced only the amount of leave which will accrue during the term of the appointment.
- 3) Sick leave may be advanced only in cases of serious disability or ailment.

Sick leave may not be advanced:

- 1) If it is known that an employee does not plan to return to duty except where

application for disability retirement has been made and approval thereof has not been received from the Office of Personnel Management (OPM).

- 2) After the OPM has approved disability retirement and official notice has been received.

8. REREDIT OF SICK LEAVE ON REEMPLOYMENT

Sick leave may be recredited to an employee without penalty in the event that the employee reenters federal service on or after December 2, 1994 after having been separated from federal employment. Prior to the December 2, 1994 date, a three (3) year limit on the recredit of sick leave was in place, but there is no retroactive entitlement to a recredit of sick leave lost by reemployment prior to December 2, 1994.

9. UNUSED SICK LEAVE CREDIT TO RETIREMENT ANNUITY

For those employees covered by the Civil Service Retirement System (CSRS), the time represented by the accumulated unused sick leave to your credit at the time of your retirement is added to your actual service used in computing retirement annuity. For this reason alone it is in each deputy's best interest to conserve his/her accumulating sick leave as much as possible. Each 8 hours of unused sick leave equals one day. Days are converted to months and years on a 260-day work-year basis. On this basis, approximately 22 days of unused sick leave equals one month of service. Accumulated unused sick leave cannot be used, however, in expediting your retirement date.

Employees covered by the Federal Employees Retirement System (FERS) receive no credit for unused sick leave.

PART 3. ON THE JOB INJURY PROCEDURES

The following is a summary of the steps to follow in submitting a claim for an on the job injury.

WHAT A FEDERAL EMPLOYEE SHOULD DO WHEN INJURED AT WORK

1. Report to Supervisor Every job-related injury should be reported as soon as possible to your supervisor. Injury also means any illness or disease that is caused or aggravated by the employment as well as damage to medical braces, artificial limbs and other prosthetic devices.
2. Obtain Medical Care Before you obtain medical treatment, ask your supervisor to authorize medical treatment by use of form CA-16. You may initially select the physician to provide necessary treatment.

This may be a private physician or, if available, a local Federal medical officer/hospital. Emergency medical treatment may be obtained without prior authorization. Take the form CA-16 and form OWCP-1500/HCFA-1500 to the provider you select. The form OWCP-1500/HCFA 1500 is the billing form physicians must use to submit bills to OWCP. Hospitals and pharmacies may use their own billing forms. An occupational disease claims form CA-16 may not be issued without prior approval from OWCP.

3. File Written Notice

In traumatic injuries, complete the employee's portion of Form CA-1. Obtain the form from your employing agency, complete and turn it in to your supervisor as soon as possible, but not later than 30 days following the injury. For occupational disease, use form CA-2 instead of form CA-1. For more detailed information carefully read the "Benefits ..." and "Instructions..." sheets which are attached to the Forms CA-1 and CA-2.

4. Obtain Receipt of Notice

A "Receipt" of Notice of Injury is attached to each Form CA-1 and Form CA-2. Your supervisor should complete the receipt and return it to you for your personal records. If it is not returned to you, ask your supervisor for it.

5. Submit Claim For COP/Leave and/or Compensation for Wage Loss

If disabled due to traumatic injury, you may claim continuation of pay (COP) not to exceed 45 calendar days or use leave. A claim for COP must be submitted no later than 30 days following the injury (the form CA-1 is designed to serve as a claim for continuation of pay). If disabled and claiming COP, submit to your employing agency within 10 work days medical evidence that you sustained a disabling traumatic injury. If disabled beyond the COP period, or if you are not entitled to COP, you may claim compensation on form CA-7 or use leave. If disabled due to occupational disease, you may claim compensation on form CA-7 or use leave. A claim for compensation for disability should be submitted as soon as possible after it is apparent that you are disabled and will enter a leave-without-pay status.

__The Federal Employees' Compensation Act (FECA) is administered by the U.S. Department of Labor, Employment Standards Administration, Office of workers' Compensation Programs (OWCP). Benefits include continuation of pay for traumatic injuries, compensation for wage loss, medical care and other assistance for job-related injury or death. For additional information about the FECA, read pamphlet CA-11, "When Injured at Work" or Federal Personnel Manual, Chapter 810, Injury Compensation, available from your employing agency. The agency will also give you the address of the OWCP Office which services your area.

PART 4. LEAVE WITHOUT PAY

1. DEFINITION

Leave without pay is a temporary non-pay status and absence from duty granted upon an employee's request. The term does not apply to time spent in the military service, suspensions, furloughs, or absences without leave (AWOL).

2. ADMINISTRATIVE DISCRETION IN GRANTING LEAVE WITHOUT PAY

- a. Each request for leave without pay should be examined closely to assure that the value to the Court of the serious needs of the employee is sufficient to offset the costs and administrative inconveniences which result from the retention of an employee in a leave-without-pay status. An employee should exhaust annual and/or sick leave before being placed on leave without pay.
- b. Normally, leave without pay should not be approved unless there is reasonable expectation that the employee will return to duty at the end of the approved period and at least one of the following benefits would result:
 - (1) Increased job performance
 - (2) Protection or improvement of employee's health
 - (3) Retention of an outstanding employee

3. APPLICATION AND APPROVAL

- a. All requests for absence on leave without pay must be submitted on Standard Form 71, Application for Leave. Absences not to exceed one month may be approved by the employee's supervisor.
- b. Absences in excess of one month are to be approved by the Clerk or the Chief Deputy.

4. MAXIMUM ALLOWANCE

Approval will not be granted for absences exceeding 12 weeks. Leave without pay of 80 hours or more can affect the waiting time for within-grade increases and promotions. Whenever a full-time employee accrues 80 hours in a non-pay status, such as LWOP, the employee does not earn annual leave and sick leave for the pay period in which the eightieth hour occurs. The same is true for a part-time employee who accrues 40 hours in a non-pay

status. Payments for health, retirement, and insurance benefits will still have to be made by the employee.

5. REPORTING LWOP

Leave without pay status must be promptly reported to the Payroll Systems Branch to avoid an overpayment of salary. The Personnel Division of the Administrative Office must be informed in writing indicating the following:

- (1) Expected duration of status
- (2) If absence is caused by work-related injury

PART 5. ABSENT WITHOUT LEAVE (AWOL)

1. DEFINITION

Absent without leave is a temporary non-pay status for any unauthorized absence from duty. Pay is denied for the entire period of absence.

2. STANDARDS FOR AWOL

If any employee does not report for work or telephone his/her supervisor as to the reason for the absence within one hour of the official reporting time, or if the employee leaves his/her duty station without prior approval, the employee, at the discretion of the supervisor, may be placed on AWOL and the leave records marked accordingly.

3. DISCIPLINARY ACTION

The condition of AWOL is not a form of disciplinary action, but it may be cause for disciplinary action at the recommendation of the supervisor.

4. CONVERSION TO OTHER LEAVE

If the absence is later determined to be excusable, the AWOL status can be converted to annual leave or sick leave.

5. APPLICATION FOR CONVERSION

An application for conversion of AWOL to some other type of leave must be made by the employee on Standard Form 71, Application for Leave.

PART 6. COMPENSATORY LEAVE

The U.S. District Court for the District of Maryland has established a comprehensive compensatory time (comp-time) policy for all non-supervisory and non-management personnel. Supervisory and management staff members are excluded from earning comp-time for work hours in excess of the normal work schedule except as required by 5 U.S. Code Section 5550 for personal religious beliefs as enumerated in the fourth paragraph of this policy. This policy is not subject to the provisions of the Fair Labor Standards Act (FLSA) of 1938, as amended, nor to the premium pay provisions found in Title 5, United States Code. Comp-time may be earned only for work ordered or approved by the Clerk or designee in advance of the extra time being worked. Comp-time may be credited only for hours worked in excess of an employee's normal daily work schedule or in excess of the normal administrative work schedule of eighty (80) hours per pay period. Travel on official business outside of normal work hours is not creditable as compensatory time, but travel outside the contiguous United States may be credited at the discretion of the Clerk or designee.

Only one (1) hour of comp-time may be earned for each hour of approved additional time worked, and this comp-time will be accrued, recorded and used in one (1) hour increments. The Clerk's Administrative Assistant will be charged with the timekeeping of all comp-time in the same manner as with all other leave, and comp-time will be subject to the same internal controls as other time, attendance and leave records. Comp-time must be used within sixty (60) days of being accrued or it will be automatically forfeited. The Clerk or designee may decree a shorter usable period and may also place a limit on the maximum number of hours which may be accrued.

Employees must use accumulated comp-time before using any accrued annual leave that may be available to them, in order to encourage prompt usage of accrued comp-time. The use of accrued comp-time requires the approval of the Clerk or designee in the same manner as annual leave. The payment of monetary compensation for unused comp-time is prohibited.

As required by 5 U.S. Code Section 5550, an employee whose personal religious beliefs require abstention from work during certain recurring or occasional periods of time may elect to engage in overtime work for time lost for meeting those religious requirements. To the extent that such schedule modifications do not interfere with the efficient accomplishment of an organization's mission, the Clerk or designee shall afford the employee with the opportunity to work compensatory overtime on an hour-for-hour basis and shall grant compensatory time off for religious observances when requested. The employee may work this compensatory overtime before or after the grant of compensatory time off. A grant of advanced compensatory time off should be repaid by the appropriate amount of overtime work within a reasonable amount of time.

Accrued comp-time will generally only be granted in instances when an employee, for reasons that are beyond his or her control, is required to remain at work beyond normal work hours. These instances will generally apply to trials or hearings that extend beyond normal work hours, emergency matters or special projects.

PART 7. LEAVE FOR MATERNITY REASONS

1. DEFINITION

Leave for maternity reasons is not a separate leave category. It may be composed of sick leave, or any combination of sick leave, annual leave, compensatory leave, and leave without pay. Leave for maternity reasons is a period of approved absence for reasons related to pregnancy and confinement.

2. LENGTH OF TIME AUTHORIZED

The U.S. Supreme Court held in Cleveland Board of Education v. LaFleur, 414 U.S. 632 (1974) that arbitrary cut-off dates, which failed to take into account the individual woman's physical condition, were unconstitutional. The Court accepted the fact that while pregnancy results in temporary disability, any actual disability affecting employment must be considered on an individual basis. Any arbitrary cut-off dates which require an employee to cease work or **prevent** an employee from returning to work without recognizing the physical capability of the employee to perform the duties of the job are unconstitutional. The period of absence should be determined by the employee, her physician and the supervisor.

3. EMPLOYEE RESPONSIBILITIES

- a. An employee should make known her intent to request leave for maternity reasons including the type of leave, approximate dates and anticipated duration. This will allow the supervisor to prepare for any staffing adjustments which may be needed to compensate for the anticipated absence from work.
- b. In connection with a need for hospitalization or extended recurring treatment for any condition requiring medical attention, an employee must file a written application for sick leave. Annual leave may also be used for these purposes.
- c. Where working conditions are more strenuous or hazardous than normal office conditions, the employee, after consultation with her physician, may request temporary modification of her working conditions to protect her health and that of her unborn child.

4. COURT'S RESPONSIBILITY

- a. The court's overall objective should be to provide gainful employment and make use of skills for as long as the employee is not incapacitated for duty.
- b. The Court should always be aware of any particular working conditions or strenuous requirements which may be a part of the work environment and which could have an

adverse effect upon employees with special physical conditions.

- c. If, after consulting with her physician, the employee requests modifications of her work duties or a temporary reassignment to other available work for which she is qualified, every reasonable effort should be made to accommodate her request. The employee may be requested to provide medical certification as to the nature of the limitations that are recommended by the employee's physician.

5. GRANTING LEAVE

- a. The same leave policies, regulations and procedures as are applicable to requests for leave generally apply to leave for maternity reasons. Childbirth or complications of pregnancy are temporary disabilities and must be treated for leave purposes in the same manner as any other physical condition which incapacitates the employee for the performance of duty.
- b. Periods of absence related to pregnancy and confinement which are not medically certified as due to incapacitation for the performance of duty may not be charged to sick leave. They must be charged to annual leave or to leave without pay if requested by the employee and approved by the supervisor.

PART 8. FAMILY AND MEDICAL LEAVE ACT OF 1993

1. Leave Benefits

The "Family and Medical Leave Act of 1993" (Public Law 103-3) became effective August 5, 1993. Title II of the Act provides unpaid family and medical leave for Federal employees covered by the annual and sick leave system. An employee shall be entitled to 12 administrative workweeks of unpaid leave (leave without pay) during any 12-month period for one or more of the following reasons:

- a. birth of a son or daughter and care of a newborn (within one year after birth);
- b. placement of a son or daughter with employee for adoption or foster care (within one year after placement);
- c. care for a spouse, son, daughter, or parent with a serious health condition; or,
- d. serious health condition of employee that makes employee unable to perform duties of his or her position.

2. Intermittent Leave and Reduced Leave Schedule

- a. An employee must obtain agreement with the court leave approving official to take leave intermittently or on a "reduced leave schedule" (1-a) or (1-b) above.
- b. Leave may be taken intermittently or on a "reduced leave schedule" under (c) or (d) above when medically necessary. A leave approving official may require temporary transfer to an alternative position with equivalent pay and benefits that can better accommodate intermittent leave under (1-c) or (1-d) above. On a "reduced leave schedule", the employee's usual number of hours of work per workday or workweek are reduced. The hours of leave taken by an employee under a reduced leave schedule will be subtracted on an hour-for-hour basis from the total amount of the 12 workweeks of leave remaining available to the employee for purposes of the 12-month period involved.

3. Substitution of Accrued Leave for Leave Without Pay

An employee may elect to substitute annual leave or sick leave (consistent with existing sick leave regulations) for unpaid leave (leave without pay) for any part of the 12-week leave entitlement.

4. Notification of Request for Leave

- a. An employee shall provide up to 30 days notice of need for leave, as practicable.
- b. When leave is being requested for a serious health condition under (1c) or (d) above, an employee should make a reasonable effort to schedule treatment, subject to the approval of the health care provider, so as not to unduly disrupt the operations of the Court.

5. Medical Certification

- a. For leave under (1c) or (1d) above, medical certification may be required with the date of onset, prognosis, statement of need for care, etc. A second opinion may be required if the validity of the original certification is questioned.
- b. A third opinion may be required from a health care provider jointly approved by the employee and the Clerk when the second opinion differs from the original certification.
- c. Periodic recertification may be required.

- d. The term "health care provider" includes a physician or any person determined to be capable of providing health care services.

6. Return to Employment

- a. An employee who takes leave is entitled to be restored to the same or equivalent position, with equivalent benefits, pay status, and other terms and conditions of employment.
- b. This leave shall not result in the loss of any employment benefit accrued before leave began. Except as otherwise provided by or under law, the new law will not entitle any restored employee to the accrual of any employment benefits during any period of leave or to any right, benefit, or position of employment other than that to which the employee would have been entitled had the employee not taken the leave.

Leave without pay of 80 hours or more can affect the waiting time for within-grade increases and promotions.

- c. An employee may elect to continue Federal Employee Health Benefits (FEHB) coverage and make arrangements to pay the employee contribution. (NOTE: FEHB coverage is limited to one year on leave without pay at the employee's option and expense.)

PART 9. COURT LEAVE

1. DEFINITION

Court leave is an authorized absence from duty, without charge to annual leave or loss of compensation, for the purpose of attending court for jury duty, or as a witness on behalf of the United States, the District of Columbia, or state or local government.

2. APPLICATION AND APPROVAL OF COURT LEAVE

- a. An employee summoned to attend court on behalf of the United States or for jury duty should apply for court leave at the earliest practicable time by submitting to his supervisor a Standard Form 71, Application for Leave, and a copy of the summons for court or jury service.
- b. Upon return to duty, a certificate of attendance in verification of court or jury duty must be submitted to the employee's supervisor. Any fees or compensation received for services shall be endorsed over to the Administrative Office of the U.S. Courts. An employee is not entitled to fees for jury service in a federal court or for appearing

as a witness on behalf of the United States. Reimbursements received by an employee for travel expenses while on court leave may be retained by the employee.

3. DURATION OF COURT LEAVE FOR JURY DUTY

- a. An employee who is summoned to jury duty in a federal or state court is to be granted court leave for the entire period, from the date on which the summons indicates he is required to report to the Court, to the time he is discharged by the Court, regardless of the number of hours per day or days per week he actually serves on the jury during the period. However, the term of jury service does not include periods during which the employee is excused or discharged by the Court, either for an indefinite period subject to call by the Court or for a definite period in excess of one day. During such periods, the employee is not entitled to court leave and any absence on such days is charged to annual leave, leave without pay, absent without official leave, or sick leave, as may be appropriate. **Note: When an employee is on call but not actually on jury duty, unless the employee requests and receives approval of another form of leave, he or she should report to work.**
- b. If an employee is excused or released by the Court for any day or a substantial portion of a day, he is expected to return to duty, provided the return would not cause the employee a hardship because of the distance from home, duty station, and the Court.

PART 10. MILITARY LEAVE

1. DEFINITION

Military leave is a leave of absence without charge to leave or loss of pay, in an amount not to exceed 15 days in any one calendar year, which is granted to members of reserve components of the Armed Forces on days during which they are on active military duty or are engaged in field or coast defense training.

2. APPLICATION AND APPROVAL

An employee must apply to his supervisor for military leave by submitting, in advance of his departure, a Standard Form 71, Application for Leave, and the original or a certified copy of the order calling the employee to military duty. Upon return to duty, the employee must submit a certificate of attendance from his commanding officer showing the days on which he was engaged on military duty.

PART 11. FUNERAL LEAVE

Refer to APPENDIX #3, LEAVE POLICIES & PROCEDURES, Part 2, Sick Leave.

PART 12. ADMINISTRATIVE LEAVE

1. DEFINITION

Administrative leave is an excused absence administratively authorized or approved by the Court which does not result in a charge to any kind of leave or loss in pay or basic salary.

- a. Professional Meetings and Seminars. Employees may be excused without charge to leave for attendance at professional meetings and seminars at which consideration is to be given to subject matter related to the general scope of the functions they are performing and benefit is expected to accrue to the courts or the government as a whole. As with annual leave, employees should obtain approval for administrative leave prior to making any financial arrangements or deposits so as to avoid any possibility of cancellation penalties.
- b. Blood Donations. There is a continuing need to encourage donations of blood for blood banks. Employees who make donations of blood without compensation will be excused from duty without charge to annual or sick leave.

Employees will be excused for such time as is necessary to make blood donations. Under no circumstances, however, may the excused absence exceed four hours. Time off in excess of four hours must be charged to leave.

- c. Hazardous Weather Dismissal Policy. The practice of excusing some or all employees because of weather conditions is at the discretion of the Court. See *Appendix #12* for detailed information.
- d. Injury in Line of Duty. An employee injured in his or her performance of duty will be granted administrative leave for the period required for the initial examination or outpatient treatment of the injury at a recognized hospital, clinic or physician's office. When injuries are such that more than one treatment or examination is required, all subsequent absences will be charged to sick leave until workmen's compensation has made their decision.

PART 13. VOLUNTARY LEAVE SHARING PROGRAM

The Voluntary Leave Sharing Program, 5 U.S.C. § 6301 *et. seq.*, is a plan which allows for the transfer of annual leave of a Federal employee to the leave account of another employee in need of such leave due to a medical emergency being experienced by the employee or by a family member of the employee.

Procedures

1. REQUEST TO BECOME A LEAVE RECIPIENT

The request to become a leave recipient should be made in writing by the employee or, if incapable of making such request, by a personal representative on behalf of the employee. This request should be submitted to the Clerk and must include:

- (a) the name, position title and grade of the employee;
- (b) the reasons why transferred leave is needed, including a brief description of the nature, severity, and anticipated duration, and, if it is a recurring medical emergency, the approximate frequency of recurrence;
- (c) certification from a physician or appropriate medical expert, if the Clerk so requires; and,
- (d) any additional information needed by the Clerk.

2. APPROVAL OR REJECTION OF THE REQUEST

- (a) The Clerk shall determine if the potential recipient is, or has been, affected by a medical emergency.
- (b) The Clerk shall determine that an employee's absence without available paid leave is, or is expected to be, at least 24 hours. (In the case of a part-time employee, the absence should be at least the average number of hours of work in the employee's biweekly scheduled tour of duty.) The 24 hours of absence without available leave does not have to be consecutive.
- (c) No other factors may be considered when making a determination of approval.
- (d) The employee is entitled to notification of approval or rejection within ten (10) workdays of receipt of the request. If the request is approved, the employee should be informed that other employees may request to have a portion of their annual leave transferred to the recipient's annual leave account. (Approval to allow an employee to become a recipient does not mean there are existing donors already available.) If the request is denied, the employee will be notified and advised of the reasons for the denial.

3. LEAVE DONATION

- (a) To donate leave, an employee must submit to the Clerk a written request specifying the number of accrued annual leave hours to be transferred to the

annual leave account of a specified leave recipient. The clerk will comply with this request subject to the restrictions given below in this subsection.

- (b) The amount of leave an employee may donate in any one leave year is limited to a total of one-half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the donation is made. The amount would be lower for an employee who does not accrue annual leave during the entire leave year due to appointment after the beginning of the leave year or leave without pay.
- (c) Annual leave transferred under this program may be substituted retroactively for leave without pay or to liquidate an indebtedness for an advance of annual and/or sick leave granted due to a medical emergency.

4. USE OF SHARED LEAVE BY A RECIPIENT

- (a) A leave recipient must exhaust all annual and sick leave, if it is the employee experiencing the medical emergency, or any annual leave and sick leave up to 104 hours (for a full-time employee), if it is a family member experiencing the medical emergency, before using any annual leave from a donor. The annual and/or sick leave referred to here is that leave accrued by the leave recipient prior to the date of the request to become a recipient was approved.
- (b) In the case where a leave recipient is able to work a portion of the time while experiencing a medical emergency, additional leave earned for that time worked must be used before using transferred annual leave. Such an employee would earn leave based in part on the amount of time spent in a pay status and on the amount of time spent in a transferred leave status. The leave earned while in a pay status would be credited to the employee's regular leave account and must be used the following pay period before using any additional transferred leave. The leave earned while in a transferred leave status would be credited to a separate account and shall not be available for use for any purpose until the beginning of the first pay period after the date the medical emergency is determined to be over. On this date, leave in the special leave account is transferred to the employee's regular leave account.

5. RESTORATION OF DONATED LEAVE

Any transferred annual leave remaining upon termination of the medical emergency shall be restored to the annual leave accounts of leave donors who are employed by a Federal agency on a pro rata basis.

PART 14. MISCELLANEOUS

1. VOTING AND REGISTRATION

Insofar as practicable, without interfering seriously with operations, employees who desire to register or vote in any election or referendum on a civic matter in their community will be allowed a reasonable time for that purpose, as follows:

- a. As a general rule, where the polls are not open at least one hour either before or after an employee's regular hours of duty, the employee may be granted an amount of annual leave which will permit the employee to report for work 1 hour after the polls open or leave work 1 hour before the polls close, whichever requires the lesser amount of time off.
- b. Under circumstances where the general rule does not permit sufficient time, an employee may be allowed additional time as may be needed to enable him to vote, depending upon the particular circumstances in the employee's individual case.

2. RELIGIOUS HOLIDAYS

As required by 5 U.S.C. § 5550, an employee whose personal religious beliefs require abstention from work during certain recurring or occasional periods of time may advise the Clerk or his/her supervisor that he/she would like to engage in overtime work for time lost for meeting those religious requirements. To the extent that such schedule modifications do not interfere with the efficient accomplishment of the court's mission, the Clerk or the supervisor will afford the employee the opportunity to work compensatory overtime on an hour-for-hour basis and shall grant compensatory time off for religious observances when requested. The employee may work this compensatory overtime before or after the grant of compensatory time off. A grant of advanced compensatory time off should be repaid by the appropriate amount of compensatory overtime work within a reasonable amount of time.

APPENDIX #4

PERMISSIBLE AND PROHIBITED POLITICAL ACTIVITIES

PERMISSIBLE AND PROHIBITED POLITICAL ACTIVITIES

All employees are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this subpart. Each employee retains the right to:

1. Register and vote in any election.
2. Express his opinion as an individual privately.
3. Display a political picture, sticker, badge or button.
4. Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization.
5. Be a member of a political party or other political organization and participate in its activities to the extent consistent with organization.
6. Attend a political convention, rally, fund-raising function, or other political gathering.
7. Sign a political petition as an individual.
8. Make a financial contribution to a political party or organization.
9. Take an active part, as a candidate or in support of a candidate, in a nonpartisan election.
10. Be politically active in connection with a question which is not specifically identified with a political party, such as a Constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character.
11. Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by State or local law.
12. Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise his efficiency or integrity as an employee or the neutrality, efficiency, or integrity of his agency.

An employee is not permitted to engage in political activity in violation of law, while on duty. The head of an agency may prohibit or limit the participation of an employee or class of employees of his agency in any activity if participation in the activity would interfere with the efficient performance of official duties, or create a conflict or apparent conflict of interest.

An employee may not take an active part in political management or in a political campaign, except as permitted by this subpart. Activities which are prohibited include but are not limited to:

1. Serving as an officer of a political party, a member of a national, state, or local committee of a political party, an officer or a member of a committee of a partisan political club, or being a candidate for any of these positions.
2. Organizing or reorganizing a political party organization or political club.
3. Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, or other funds for a political purpose.
4. Organizing, selling tickets to, promoting, or actively participating in a fundraising activity of a partisan candidate, political party or political club.
5. Taking an active part in managing the political campaign of a partisan candidate for public office or political party office.
6. Becoming a partisan candidate for, or campaigning for, an elective public office.
7. Soliciting votes in support of or in opposition to a partisan candidate for public office or political party office.
8. Acting as recorder, watcher, challenger, or similar officer at the polls or in behalf of a political party or partisan candidate.
9. Driving voters to the polls on behalf of a political party or a partisan candidate.
10. Endorsing or opposing a partisan candidate for public office or political party office in a political advertisement, broadcast, campaign literature, or similar material.
11. Serving as a delegate, alternate, or proxy to a political party convention.
12. Addressing a convention, caucus, rally or similar gathering or a political party in support of or in opposition to a partisan candidate for public office or political party office.
13. Initiating or circulating a partisan nominating petition.

APPENDIX #5

**CODE OF CONDUCT
FOR
JUDICIAL EMPLOYEES**

CODE OF CONDUCT FOR JUDICIAL EMPLOYEES

Introduction

This Code of Conduct applies to all employees of the Judicial Branch except Justices; judges; and employees of the United States Supreme Court, the Administrative Office of the United States Courts, the Federal Judicial Center, the Sentencing Commission, and Federal Public Defender offices.¹ As used in this code in canons 3F(2)(b), 3F(5), 4B(2), 4C(1), and 5A, a member of a judge's personal staff means a judge's secretary, a judge's law clerk, and a courtroom deputy clerk or court reporter whose assignment with a particular judge is reasonably perceived as being comparable to a member of the judge's personal staff.²

Contractors and other nonemployees who serve the Judiciary are not covered by this code, but appointing authorities may impose these or similar ethical standards on such nonemployees, as appropriate.

The Judicial Conference has authorized its Committee on Codes of Conduct to render advisory opinions concerning the application and interpretation of this code. Employees should consult with their supervisor and/or appointing authority for guidance on questions concerning this code and its applicability before a request for an advisory opinion is made to the Committee on Codes of Conduct. In assessing the propriety of one's proposed conduct, a judicial employee should take care to consider all relevant canons in this code, the Ethics Reform Act, and other applicable statutes and regulations³ (e.g., receipt of a gift may implicate canon 2 as well as canon 4C(2) and the Ethics Reform Act gift regulations). Should a question remain after this consultation, the affected judicial employees, or the chief judge, supervisor, or appointing authority of such employee, may request an

1

Justices and employees of the Supreme Court are subject to standards established by the Justices of that Court. Judges are subject to the Code of Conduct for United States Judges. Employees of the AO and the FJC are subject to their respective agency codes. Employees of the Sentencing Commission are subject to standards established by the Commission. Federal public defender employees are subject to the Code of Conduct for Federal Public Defender Employees. When Actually Employed (WAE) employees are subject to canons 1, 2, and 3 and such other provisions of this code as may be determined by the appointing authority.

2

Employees who occupy positions with functions and responsibilities similar to those for a particular position identified in this code should be guided by the standards applicable to that position, even if the position title differs. When in doubt, employees may seek an advisory opinion as to the applicability of specific code provisions.

3

See Guide to Judiciary Policies and Procedures, Volume II, Chapter VI, Statutory and Regulatory Provisions Relating to the Conduct of Judges and Judicial Employees.

advisory opinion from the Committee. Requests for advisory opinions may be addressed to the Chairman of the Committee on Codes of Conduct in care of the General Counsel, Administrative Office of the United States Courts, One Columbus Circle, N.E., Washington, D.C. 20544.

Adopted September 19, 1995 by the Judicial
Conference of the United States
Effective January 1, 1996

**CANON 1: A JUDICIAL EMPLOYEE SHOULD UPHOLD THE INTEGRITY
AND INDEPENDENCE OF THE JUDICIARY AND OF THE
JUDICIAL EMPLOYEE’S OFFICE**

An independent and honorable Judiciary is indispensable to justice in our society. A judicial employee should personally observe high standards of conduct so that the integrity and independence of the Judiciary are preserved and the judicial employee’s office reflects a devotion to serving the public. Judicial employees should require adherence to such standards by personnel subject to their direction and control. The provisions of this code should be construed and applied to further these objectives. The standards of this code shall not affect or preclude other more stringent standards required by law, by court order, or by the appointing authority.

**CANON 2: A JUDICIAL EMPLOYEE SHOULD AVOID IMPROPRIETY AND
THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES**

A judicial employee should not engage in any activities that would put into question the propriety of the judicial employee’s conduct in carrying out the duties of the office. A judicial employee should not allow family, social, or other relationships to influence official conduct or judgment. A judicial employee should not lend the prestige of the office to advance or to appear to advance the private interests of others. A judicial employee should not use public office for private gain.

**CANON 3: A JUDICIAL EMPLOYEE SHOULD ADHERE TO APPROPRIATE
STANDARDS IN PERFORMING THE DUTIES OF THE OFFICE**

In performing the duties prescribed by law, by resolution of the Judicial Conference of the United States, by court order, or by the judicial employee’s appointing authority, the following standards apply:

- A. A judicial employee should respect and comply with the law and these canons. A judicial employee should report to the appropriate supervising authority any attempt to induce the judicial employee to violate these canons.

Note: A number of criminal statutes of general applicability govern federal employees’ performance of official duties. These include:

18 U.S.C. § 201 (bribery of public officials and witnesses);

18 U.S.C. § 211 (acceptance or solicitation to obtain appointive public office);

18 U.S.C. § 285 (taking or using papers relating to government claims);

18 U.S.C. § 287 (false, fictitious, or fraudulent claims against the government);

18 U.S.C. § 508 (counterfeiting or forging transportation requests);

18 U.S.C. § 641 (embezzlement or conversion of government money, property, or records);

18 U.S.C. § 643 (failing to account for public money);

18 U.S.C. § 798 and 50 U.S.C. § 783 (disclosure of classified information);

18 U.S.C. § 1001 (fraud or false statements in a government matter);

18 U.S.C. § 1719 (misuse of franking privilege);

18 U.S.C. § 2071 (concealing, removing, or mutilating a public record);

31 U.S.C. § 1344 (misuse of government vehicle);

31 U.S.C. § 3729 (false claims against the government).

In addition, provisions of specific applicability to court officers include:

18 U.S.C. §§ 153, 154 (court officers embezzling or purchasing property from bankruptcy estate);

18 U.S.C. § 645 (embezzlement and theft by court officers);

18 U.S.C. § 646 (court officers failing to deposit registry moneys);

18 U.S.C. § 647 (receiving loans from registry moneys from court officer).

This is not a comprehensive listing but sets forth some of the more significant provisions with which judicial employees should be familiar.

- B. A judicial employee should be faithful to professional standards and maintain competence in the judicial employee's profession.
- C. A judicial employee should be patient, dignified, respectful, and courteous to all persons with whom the judicial employee deals in an official capacity including the general public, and should require similar conduct of personnel subject to the judicial employee's direction and control. A judicial employee should diligently discharge the responsibilities of the office in a prompt, efficient, nondiscriminatory, fair, and professional manner. A judicial employee should never influence or attempt to influence the assignment of cases, or perform any discretionary or ministerial function of the court in a manner that improperly favors any litigant or attorney, nor should a judicial employee imply that he or she is in a position to do

so.

D. A judicial employee should avoid making public comment on the merits of a pending or impending action and should require similar restraint by personnel subject to the judicial employee's direction and control. This proscription does not extend to public statements made in the course of official duties or to the explanation of court procedures. A judicial employee should never disclose any confidential information received in the course of official duties except as required in the performance of such duties, nor should a judicial employee employ such information for personal gain. A former judicial employee should observe the same restrictions on disclosure of confidential information that apply to a current judicial employee, except as modified by the appointing authority.

E. A judicial employee should not engage in nepotism prohibited by law.

Note: See also 5 U.S.C. § 3110 (employment of relatives); 28 U.S.C. § 458 (employment of judges' relatives).

F. Conflicts of Interest.

(1) A judicial employee should avoid conflicts of interest in the performance of official duties. A conflict of interest arises when a judicial employee knows that he or she (or the spouse, minor child residing in the judicial employee's household, or other close relative of the judicial employee) might be so personally or financially affected by a matter that a reasonable person with knowledge of the relevant facts would question the judicial employee's ability properly to perform official duties in an impartial manner.

(2) Certain judicial employees, because of their relationship to a judge or the nature of their duties, are subject to the following additional restrictions:

(a) A staff attorney or law clerk should not perform any official duties in any matter with respect to which such staff attorney or law clerk knows that:

(i) he or she has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(ii) he or she served as lawyer in the matter in controversy, or a lawyer with whom he or she previously practiced law had served (during such association) as a lawyer concerning the matter, or he, she, or such lawyer has been a material witness;

(iii) he or she, individually or as a fiduciary, or the spouse or minor child

residing in his or her household, has a financial interest in the subject matter in controversy or in a party to the proceeding;

- (iv) he or she, a spouse, or a person related to either within the third degree of relationship⁴, or the spouse of such (a) is a party to the proceeding, or an officer, director, or trustee of a party; (b) is acting as a lawyer in the proceeding; (c) has an interest that could be substantially affected by the outcome of the proceeding; or (d) is likely to be a material witness in the proceeding;
 - (v) he or she has served in governmental employment and in such capacity participated as counsel, advisor, or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.
- (b) A secretary to a judge, or a courtroom deputy or court reporter whose assignment with a particular judge is reasonably perceived as being comparable to a member of the judge's personal staff, should not perform any official duties in any matter with respect to which such secretary, courtroom deputy, or court reporter knows that he or she, a spouse, or a person related to either within the third degree of relationship, or the spouse of such person (i) is a party to the proceeding, or an officer, director, or trustee of a party; (ii) is acting as a lawyer in the proceeding; (iii) has an interest that could be substantially affected by the outcome of the proceeding; or (iv) is likely to be a material witness in the proceeding; provided, however, that when the foregoing restriction presents undue hardship, the judge may authorize the secretary, courtroom deputy, or court reporter to participate in the matter if no reasonable alternative exists and adequate safeguards are in place to ensure that official duties are properly performed. In the event the secretary, courtroom deputy, or court reporter possesses any of the foregoing characteristics and so advises the judge, the judge should also consider whether the Code of Conduct for United States Judges may require the judge to recuse.
- (c) A probation or pretrial services officer should not perform any official duties in any matter with respect to which the probation or pretrial services officer knows that:

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As used in this code, the third degree of relationship is calculated according to the civil law system to include the following relatives: parent, child, grandparent, grandchild, great grandparent, great grandchild, brother, sister, aunt, uncle, niece and nephew.

- (i) he or she has a personal bias or prejudice concerning a party;
 - (ii) he or she is related within the third degree of relationship to a party to the proceeding, or to an officer, director, or trustee of a party, or to a lawyer in the proceeding;
 - (iii) he or she, or a relative within the third degree of relationship, has an interest that could be substantially affected by the outcome of the proceeding.
- (3) When a judicial employee knows that a conflict of interest may be presented, the judicial employee should promptly inform his or her appointing authority. The appointing authority, after determining that a conflict or the appearance of a conflict of interest exists, should take appropriate steps to restrict the judicial employee's performance of official duties in such matter so as to avoid a conflict or the appearance of a conflict of interest. A judicial employee should observe any restrictions imposed by his or her appointing authority in this regard.
- (4) A judicial employee who is subject to canon 3F(2) should keep informed about his or her personal, financial and fiduciary interests and make a reasonable effort to keep informed about such interests of a spouse or minor child residing in the judicial employee's household.
- (5) A member of a judge's personal staff should inform the appointing judge of any circumstance or activity of the staff member that might serve as a basis for disqualification of either the staff member or the judge, in a matter pending before the judge.

CANON 4: IN ENGAGING IN OUTSIDE ACTIVITIES, A JUDICIAL EMPLOYEE SHOULD AVOID THE RISK OF CONFLICT WITH OFFICIAL DUTIES, SHOULD AVOID THE APPEARANCE OF IMPROPRIETY, AND SHOULD COMPLY WITH DISCLOSURE REQUIREMENTS

- A. Outside Activities. A judicial employee's activities outside of official duties should not detract from the dignity of the court, interfere with the performance of official duties, or adversely reflect on the operation and dignity of the court or office the judicial employee serves. Subject to the foregoing standards and the other provisions of this code, a judicial employee may engage in such activities as civic, charitable, religious, professional, educational, cultural, avocational, social, fraternal, and recreational activities, and may speak, write, lecture, and teach. If such outside activities concern the law, the legal system, or the administration of justice, the judicial employee should first consult with the appointing authority to determine whether the proposed activities are consistent with the foregoing standards and the other provisions of this code.

B. Solicitation of Funds. A judicial employee may solicit funds in connection with outside activities, subject to the following limitations:

- (1) A judicial employee should not use or permit the use of the prestige of the office in the solicitation of funds.
- (2) A judicial employee should not solicit subordinates to contribute funds to any such activity but may provide information to them about a general fund-raising campaign. A member of a judge's personal staff should not solicit any court personnel to contribute funds to any such activity under circumstances where the staff member's close relationship to the judge could reasonably be construed to give undue weight to the solicitation.
- (3) A judicial employee should not solicit or accept funds from lawyers or other persons likely to come before the judicial employee or the court or office the judicial employee serves, except as an incident to a general fund-raising activity.

C. Financial Activities.

- (1) A judicial employee should refrain from outside financial and business dealings that tend to detract from the dignity of the court, interfere with the proper performance of official duties, exploit the position, or associate the judicial employee in a substantial financial manner with lawyers or other persons likely to come before the judicial employee or the court or office the judicial employee serves, provided, however, that court reporters are not prohibited from providing services for compensation to the extent permitted by statute and by the court. A member of a judge's personal staff should consult with the appointing judge concerning any financial and business activities that might reasonably be interpreted as violating this code and should refrain from any activities that fail to conform to the foregoing standards or that the judge concludes may otherwise give rise to an appearance of impropriety.
- (2) A judicial employee should not solicit or accept a gift from anyone seeking official action from or doing business with the court or other entity served by the judicial employee, or from anyone whose interests may be substantially affected by the performance or nonperformance of official duties; except that a judicial employee may accept a gift as permitted by the Ethics Reform Act of 1989 and the Judicial Conference regulations thereunder. A judicial employee should endeavor to prevent a member of a judicial employee's family residing in the household from soliciting or accepting any such gift except to the extent that a judicial employee would be permitted to do so by the Ethics Reform Act of 1989 and the Judicial Conference regulations thereunder.

Note: See 5 U.S.C. § 7353 (gifts to federal employees). See also 5 U.S.C. § 7342 (foreign gifts); 5 U.S.C. § 7351 (gifts to superiors).

- (3) A judicial employee should report the value of gifts to the extent a report is required by the Ethics Reform Act, other applicable law, or the Judicial Conference of the United States.

Note: See 5 U.S.C. app., §§ 101 to 111 (Ethics Reform Act financial disclosure provisions).

- (4) During judicial employment, a law clerk or staff attorney may seek and obtain employment to commence after the completion of the judicial employment. However, the law clerk or staff attorney should first consult with the appointing authority and observe any restrictions imposed by the appointing authority. If any law firm, lawyer, or entity with whom a law clerk or staff attorney has been employed or is seeking or has obtained future employment appears in any matter pending before the appointing authority, the law clerk or staff attorney should promptly bring this fact to the attention of the appointing authority.

D. Practice of Law. A judicial employee should not engage in the practice of law except that a judicial employee may act pro se, may perform routine legal work incident to the management of the personal affairs of the judicial employee or a member of the judicial employee's family, and may provide pro bono legal services in civil matters, so long as such pro se, family, or pro bono legal work does not present an appearance of impropriety, does not take place while on duty or in the judicial employee's workplace, and does not interfere with the judicial employee's primary responsibility to the office in which the judicial employee serves, and further provided that:

- (1) in the case of pro se legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings);
- (2) in the case of family legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings) and does not involve the entry of an appearance in a federal court;
- (3) in the case of pro bono legal services, such work (a) is done without compensation; (b) does not involve the entry of an appearance in any federal, state, or local court or administrative agency; (c) does not involve a matter of public controversy, an issue likely to come before the judicial employee's court, or litigation against federal, state or local government; and (d) is reviewed in advance with the appointing authority to determine whether the proposed services are consistent with the foregoing standards and the other provisions of this code.

Judicial employees may also serve as uncompensated mediators or arbitrators for nonprofit organizations, subject to the standards applicable to pro bono practice of law, as set forth above, and the other provisions of this code.

A judicial employee should ascertain any limitations imposed by the appointing judge or the court on which the appointing judge serves concerning the practice of law by a former judicial employee before the judge or the court and should observe such limitations after leaving such employment.

Note: See also 18 U.S.C. § 203 (representation in matters involving the United States); 18 U.S.C. § 205 (claims against the United States); 28 U.S.C. § 955 (restriction on clerks of court practicing law).

- E. Compensation and Reimbursement. A judicial employee may receive compensation and reimbursement of expenses for outside activities provided that receipt of such compensation and reimbursement is not prohibited or restricted by this code, the Ethics Reform Act, and other applicable law, and provided that the source or amount of such payments does not influence or give the appearance of influencing the judicial employee in the performance of official duties or otherwise give the appearance of impropriety. Expense reimbursements should be limited to the actual cost of travel, food, and lodging reasonably incurred by a judicial employee and, where appropriate to the occasion, by the judicial employee's spouse or relative. Any payment in excess of such an amount is compensation.

A judicial employee should make and file reports of compensation and reimbursement for outside activities to the extent prescribed by the Ethics Reform Act, other applicable law, or the Judicial Conference of the United States.

Notwithstanding the above, a judicial employee should not receive any salary, or any supplementation of salary, as compensation for official government services from any source other than the United States, provided, however, that court reporters are not prohibited from receiving compensation for reporting services to the extent permitted by statute and by the court.

Note: See U.S.C. app., §§ 101 to 111 (Ethics Reform Act financial disclosure provisions); 28 U.S.C. § 753 (court reporter compensation). See also 5 U.S.C. app., §§ 501 to 505 (outside earned income and employment).

CANON 5: A JUDICIAL EMPLOYEE SHOULD REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITY

- A. Partisan Political Activity. A judicial employee should refrain from partisan political activity; should not act as a leader or hold any office in a partisan political organization; should not make speeches for or publicly endorse or oppose a partisan political organization or

candidate; should not solicit funds for or contribute to a partisan political organization, candidate, or event; should not become a candidate for partisan political office; and should not otherwise actively engage in partisan political activities.

- B. Nonpartisan Political Activity. A member of a judge's personal staff, clerk of court, chief probation officer, chief pretrial services officer, circuit executive, and district court executive should refrain from nonpartisan political activity such as campaigning for or publicly endorsing or opposing a nonpartisan political candidate; soliciting funds for or contributing to a nonpartisan political candidate or event; and becoming a candidate for nonpartisan political office. Other judicial employees may engage in nonpartisan political activity only if such activity does not tend to reflect adversely on the dignity or impartiality of the court or office and does not interfere with the proper performance of official duties. A judicial employee may not engage in such activity while on duty or in the judicial employee's workplace and may not utilize any federal resources in connection with any such activity.

Note: See also 18 U.S.C. chapter 29 (elections and political activities).

APPENDIX #6

EQUAL EMPLOYMENT OPPORTUNITY PLAN

AND

MODEL EMPLOYMENT DISPUTE RESOLUTION PLAN

EQUAL EMPLOYMENT OPPORTUNITY PLAN

&

MODEL EMPLOYMENT DISPUTE RESOLUTION PLAN

FOR

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

I. PREAMBLE

The Judicial Conference of the United States has directed that each court adopt an Affirmative Action Plan in conformance with the national policy of providing equal employment opportunity to all persons regardless of their race, sex, color, national origin, religion, age, or handicap. The U.S. District Court for the District of Maryland endorses this national policy. The court will promote equal employment opportunity through a program encompassing all facets of personnel management, including recruitment, hiring, promotion, and advancement. This program, which will be periodically evaluated, is not intended to modify or reduce the qualification standards for employment in the Federal Courts as such standards have been approved by the Judicial Conference of the United States.

II. SCOPE OF COVERAGE

This Equal Employment Opportunity Program applies to all court personnel including judges' staffs and court officers and their staffs.

III. ORGANIZATION

A. Implementation

The court shall implement this Equal Employment Opportunity Program. On behalf of the court, the Chief Judge may submit modifications in the plan for Circuit Council approval from time to time.

B. Heads of Court Support Units

The heads of each court must ensure that all vacancies are publicly announced to attract candidates who represent the make-up of persons available in the qualified labor market and all hiring decisions are based solely on job-related factors. They must also see that the skills, abilities and potential of each employee are identified and developed to their fullest extent, and that all employees are given equal opportunities for promotions. To this end, the District Clerk may encourage cross-training, reassignments, job restructuring, special assignments, and outside job-related training.

C. Judges, Court Managers and Supervisors

Judges and designated court managers and supervisors must apply equal employment opportunity practices and policies in their work unit. This includes giving each employee the opportunity to demonstrate his or her skills and, where those abilities exceed general performance standards, to be recommended for personnel actions and awards recognizing such achievements. It also requires provided training programs which enable employees to develop their job skills fully.

D. Equal Employment Opportunity Coordinator

The court has designated the Clerk to be the Equal Employment Opportunity Coordinator.

This person will be responsible for collecting and analyzing the statistical data pertaining to the court's EEO activity. The Coordinator will then prepare an annual report for the Chief Judge and the Administrative Office describing the court's achievements in providing equal employment opportunities, identifying those areas in which improvements are needed, and explaining those factors inhibiting achievement of equal employment opportunity objectives. Based upon this evaluation and report, the coordinator will recommend modifications in the Plan to the Court. The Coordinator will also seek to informally resolve discrimination complaints and will provide EEO information to the public.

IV. PERSONNEL PRACTICES

A. Recruitment

The district court will seek qualified applicants who reflect the makeup of all such persons in the relevant labor market. Each unit will also use appropriate available means to publicize vacancies widely.

B. Hiring

The court will make its hiring decisions strictly upon an evaluation of a person's qualifications and ability to perform the duties of the position satisfactorily.

C. Promotions

The court will promote employees according to their experience, training and demonstrated ability to perform duties of a higher level.

D. Advancement

The court will seek to improve the skills and abilities of its employees through such methods as cross-training, job restructuring, assignments, details and outside training.

E. Discrimination Complaints

The court adopts the Model Employment Dispute Resolution Plan for resolving discrimination complaints. See page 4 of this section.

V. EVALUATIONS

The court will prepare a brief report for the EEO Coordinator describing its efforts to provide equal employment opportunities in the following:

- a. Recruitment. The court will describe briefly efforts made to bring a fair cross-section of the

pool available for the position into its applicant pool, including listing all employment sources used (e.g., state employment offices, schools, organizations, etc.) Each unit will also explain the methods it uses to publicize vacancies.

- b. Hiring. The court will identify where its recruitment efforts resulted in the hiring of a cross-section of the pool available and will, if known, explain those instances where members of the cross-section did not accept employment with the courts when it was offered.
- c. Promotions. The court will briefly describe promotional opportunities which occurred and will provide an analysis of the distribution of promotions, including a description of those persons who were promoted to supervisory positions.
- d. Advancement. The court will describe what efforts were made to improve the skills and abilities of employees through cross-training, job restructuring, assignments, details and outside training. This report will compare the race, sex, color, national origin, religion, age, and any handicap of the personnel involved.

In addition, this evaluation should include information on factors inhibiting achievement of EEO objectives such as no vacancies, minimal numbers of qualified applicants in the relevant labor market, and all persons in the unit having received all relevant training. This report will also include a breakdown according to the race, sex, color, national origin, religion, age and handicap of the court's personnel involved on forms to be provided by the Administrative Office of the United States Courts. The report will cover personnel actions occurring in the year ending June 30 and will be submitted to the EEO Coordinator by July 14 of each year.

VI. OBJECTIVES

The district court will develop annually its own objectives which reflect those improvements needed in recruitment, hiring, promotions, and advancement, and will prepare a specific plan for the EEO Coordinator explaining how those objectives will be achieved.

VII. ANNUAL REPORT

The EEO Coordinator will prepare for the court's approval an annual report for the year ending June 30 containing data and statistics reflecting EEO activity. The report will include tables to be provided by the Administrative Office of the United States Courts. It will describe instances where significant achievements were made in providing equal employment opportunities, will identify areas where improvements are needed, and will explain factors inhibiting achievement of equal employment opportunity objectives. Upon approval of the court, this report will be submitted by the Chief Judge to the Administrative Office of the United States Court by August 1 of each year.

MODEL EMPLOYMENT DISPUTE RESOLUTION PLAN

CHAPTER I - GENERAL PROVISIONS

§ 1 Preamble

This Plan shall be known as the Federal Judiciary Model Employment Dispute Resolution Plan ("Model EDR Plan"). It was adopted by the Judicial Conference of the United States in order to provide rights and protections to employees of the United States courts which are comparable to those provided to legislative branch employees under the Congressional Accountability Act of 1995.

The Plan supersedes Appendix I ("Discrimination and Complaint Procedures") of the current Judiciary Model Equal Employment Opportunity Plan ("Model EEO Plan"), except for Section VI of Appendix I ("Annual Report") imposing requirements on the courts. Claims arising under Chapters II through VII of this Plan, or under Sections I through VII of the Judiciary's Model EEO Plan, shall be treated in accordance with the procedures set forth in Chapter VIII of this Plan. The duties of the court's EEO Coordinator will be assumed by the Employment Dispute Resolution Coordinator (established in Section 3 of Chapter VIII of this Plan), except that the dispute resolution duties assigned to the EEO Coordinator under the Model EEO Plan will be replaced by the dispute resolution procedures set forth in Chapter VIII of this Plan.

This Plan is to be implemented in the same manner as the Model EEO Plan. Upon approval of this Plan by the Judicial Conference, each court shall adopt and implement a plan based thereon. Any modification of this Plan by a court must first be approved in its circuit by the judicial council. A copy of each plan and any subsequent modifications shall be filed with the Administrative Office. Each court shall annually submit a report on the implementation of its plan to the Administrative Office for inclusion in the Director's Annual Report to the Judicial Conference.

Policies adopted by individual courts pertaining to adverse action or general grievance proceedings that do not invoke the rights and protections afforded under the Model EDR Plan are not affected by the Plan. Further, local policies relating to rights enumerated under the Plan that are not inconsistent with the rights and procedures established herein will not be affected by the Plan.

The Model EDR Plan is not intended to duplicate the protections provided for the resolution of complaints of judicial officer misconduct or disability under 28 U.S.C. § 372(c) and otherwise is intended to be the exclusive remedy of the employee relating to rights enumerated under the Plan.

Election of Remedies: If an employee has a grievance or an appeal of an adverse action which could

be brought either (a) under the court's internal procedures or (b) under the EDR Plan procedures, the employee may elect either (a) or (b) but may not proceed under both, either simultaneously or consecutively.

§ 2 Scope of coverage

This Plan applies to all Article III judges and other judicial officers of the United States courts of appeals, district courts, and bankruptcy courts, as well as to all employees of the courts of appeals, district courts, and bankruptcy courts, including judges' chambers staffs, court unit heads and their staffs, circuit executives and their staffs, federal public defenders and their staffs, and bankruptcy administrators and their staffs.

§ 3 Definitions

For purposes of this Plan--

- A.** The term "employee" includes all individuals listed in Section 2 of this Chapter, as well as applicants for employment and former employees, except as provided below. The term "employee" does not include externs, applicants for bankruptcy judge or magistrate judge positions, applicants for judicial law clerk positions, private attorneys who apply to represent indigent defendants under the Criminal Justice Act, criminal defense investigators not employed by federal public defenders, volunteer counselors or mediators, or other individuals who are not employees of an "employing office" as that term is defined below.
- B.** The term "employing office" includes all offices of the United States courts of appeals, district courts, and bankruptcy courts, including the offices of circuit executives, district court executives, federal public defenders, clerks of court, chief probation officers, chief pretrial services officers, staff attorneys, chief preargument attorneys, circuit librarians, bankruptcy administrators, and any such offices that might be created in the future. The court is the employing office of a judicial officer's chambers staff.
- C.** The term "judicial officer" means a judge appointed under Article III of the Constitution, a United States bankruptcy judge, a United States magistrate judge, or a judge of any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States.
- D.** The term "court" refers to the appropriate court (appeals, district or bankruptcy) in which is located the employing office which would be responsible for redressing, correcting or abating the violation alleged in the complaint. In the case of disputes involving federal public defenders, the term "court" refers to the appropriate court of appeals.

- E. The term “days” in all filing and other time periods specified in this plan shall mean calendar days, except that if the deadline date falls on a weekend or holiday, the deadline shall be extended to the following court business day.

CHAPTER II - EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-DISCRIMINATION RIGHTS

§ 1 **General** - Discrimination against employees based on race, color, religion, sex (including sexual harassment), national origin, age (at least 40 years of age at the time of the alleged discrimination), and disability is prohibited. The rights and protections of Sections I through VII of the Judiciary's Model Equal Employment Opportunity Plan shall also apply to employees.

§ 2 **Definition** - The term "disability" means--

- A. a physical or mental impairment that substantially limits one or more of the major life activities of an employee,
- B. a record of such an impairment, or
- C. being regarded as having such an impairment.

See 42 U.S.C. § 12102(2).

§ 3 **Special provision for probation and pretrial services officers** - The age discrimination provision of Section I of this Chapter shall not apply to the initial hiring of probation and pretrial services officers. *See Report of the Proceedings of the Judicial Conference of the United States (March 1991), pp. 16-17.*

CHAPTER III - FAMILY AND MEDICAL LEAVE RIGHTS

§ 1 **General** - Title II of the Family and Medical Leave Act of 1993, 29 U.S.C. § 2611, applies to court employees in the manner prescribed in Volume I-C, Chapter X, Subchapter 1630.1, Section R, of the *Guide to Judiciary Policies and Procedures*.

CHAPTER IV - WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS

§ 1 **General** - No “employing office closing” or “mass layoff” (as defined in Section 2 of this Chapter) may occur until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to employees who will be affected. This provision

shall not apply to an employing office closing or mass layoff that results from the absence of appropriated funds.

§ 2 Definitions

- A.** The term "employing office closing" means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.
- B.** The term "mass layoff" means a reduction in force which--
- 1.** is not the result of an employing office closing; and
 - 2.** results in an employment loss at the single site of employment during any 30-day period for
 - a.** (1) at least 33 percent of the employees (excluding any part-time employees); and
 - (2) at least 50 employees (excluding any part-time employees); or
 - b.** at least 500 employees (excluding any part-time employees).

See 29 U.S.C. § 2101.

CHAPTER V - EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

- § 1 General** - An employing office shall not discriminate against an eligible employee or deny an eligible employee reemployment rights or benefits under the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. § 4301 et seq.

CHAPTER VI - OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS

- § 1 General** - Each employing office shall provide to its employees a place of employment which is free from recognized hazards that cause or are likely to cause death or serious physical harm to employees. Complaints which seek a remedy that is exclusively within the jurisdiction of the General Services Administration ("GSA") or the United States Postal Service ("USPS") to provide are not cognizable under this Plan; such requests should be filed

directly with GSA or the USPS as appropriate.

- § 2 **Court program requirements** - The court shall implement a program to achieve the protections set forth in Section 1 of this Chapter.

CHAPTER VII - POLYGRAPH TESTS

- § 1 **General** - No employee may be required to take a polygraph test.

CHAPTER VIII - DISPUTE RESOLUTION PROCEDURES

- § 1 **General procedure for consideration of alleged violations** - An employee who claims a denial of the rights granted under Chapters II through VII of this Plan shall seek resolution of such claims through the procedures of this Chapter. Generally, the procedural process consists of--

- A. counseling and mediation;
- B. hearing before the chief judge of the court (or a designated judicial officer) in which the alleged violation arises; and
- C. review of the hearing decision under procedures established by the judicial council of the circuit.

- § 2 **General provisions and protections**

- A. **Prohibition against retaliation** - Complainants under this Plan have the right to be free from retaliation, coercion, or interference because of filing a complaint pursuant to this Plan. Likewise, any person who participates in the filing or processing of a complaint, such as an employment dispute resolution coordinator, mediator, witness, representative, or co-worker, is also entitled to freedom from retaliation.
- B. **Right to representation** - Every individual invoking the dispute resolution procedures of this Plan has the right to be represented by a person of his or her choice if such person is available and consents to be a representative. Every respondent (employing office or judge) that is the subject of the individual employee's complaint also has the right to be represented. A court employee may accept the responsibilities of representation if it will not unduly interfere with his or her court duties or constitute a conflict of interest, as determined by the representative's appointing officer.

C. Case preparation - To the extent feasible, every individual invoking the dispute resolution procedures of this Plan may use a reasonable amount of official time to prepare his or her case, so long as it does not unduly interfere with the performance of his or her court duties and appropriate notice is provided to the employee's supervisor. Any dispute about whether the amount of official time being used is unreasonable shall be resolved by the EDR Coordinator.

D. Extensions of time - The chief judge of the court, or other presiding judicial officer, may extend any of the deadlines set forth in this Chapter for good cause.

E. Records - At the conclusion of formal and informal proceedings under this Plan, all papers, files, and reports will be filed with the court's Employment Dispute Resolution Coordinator ("EDR Coordinator"). No papers, files, or reports relating to a dispute will be filed in any employee's personnel folder, except as necessary to implement an official personnel action.

§ 3 Designation and duties of employment dispute resolution coordinator - Each court shall designate a person to serve as the EDR Coordinator. Courts may designate more than one EDR Coordinator. The duties of such person shall include the following:

A. to provide information to the court and employees regarding the rights and protections afforded under this Plan;

B. to coordinate and organize the procedures and establish and maintain official files of the court pertaining to complaints and other matters initiated and processed under the court's employment dispute resolution plan;

C. to coordinate the counseling of individuals in the initial stages of the complaint process, in accordance with Section 5 of this Chapter; and

D. to collect, analyze, and consolidate statistical data and other information pertaining to the court's employment dispute resolution process.

For the District of Maryland, the following persons are designated to serve as EDR Coordinators:

A. The Clerk of the District Court;

B. The Clerk of the Bankruptcy Court;

C. The Chief Probation Officer; and

D. The Chief Pretrial Services Officer.

§ 4 General disqualification provision - Any person seeking disqualification or recusal of an

EDR counselor, mediator, or reviewing official shall promptly submit a written statement to the chief judge explaining the reasons for the requested disqualification or recusal. A copy shall be provided to the person whose recusal is sought, and that person also may choose to submit a written statement to the chief judge. In determining whether disqualification or recusal is warranted, the chief judge shall consider the factors, circumstances and considerations set forth in 28 U.S.C. Sec. 455. If disqualification or recusal is warranted, the chief judge shall designate another individual to act as the EDR counselor, mediator, or reviewing official. Disqualification or recusal of the EDR counselor, mediator or reviewing official of a court shall not be warranted merely because the court is named as a responding party.

The chief judge may designate another judicial officer to review a request for disqualification or recusal under this Section.

§ 5 Counseling

A. Initiating a proceeding; formal request for counseling - An employee who believes that his or her rights under Chapters II through VII of this Plan have been violated must first request counseling.

B. Form and manner of requests - Requests for counseling:

1. are to be submitted to the EDR Coordinator for the court unit in which the individual is employed;
2. must be made in writing; and
3. must be made within 15 days of the alleged violation or within 15 days of the time the employee becomes aware of or reasonably should have been aware of the alleged violation.

An approved form of Request for Counseling is attached as Attachment A. Copies of any and all approved forms may also be obtained from the court's personnel specialist.

C. Procedures

1. **Who may serve as counselor** - The counseling shall be conducted by an EDR Coordinator other than the EDR Coordinator for the court unit in which the individual is employed, unless the EDR Coordinator is disqualified from serving as counselor under Section 4 of this Chapter, or is otherwise unavailable. In such instances, the chief judge of the court shall designate another qualified individual to perform the counseling function. If the dispute involves an alleged violation of this Plan by a judicial officer, the person who conducts the counseling shall be a judicial officer designated by the chief judge.

2. **Purposes of counseling** - The purposes of the counseling shall be to discuss the employee's concerns and elicit information regarding the matter which the employee believes constitutes a violation; to advise the employee of his or her rights and responsibilities and the procedures of the court applicable to the employment dispute resolution process; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.
 3. **Confidentiality** - All counseling shall be kept confidential unless the employee agrees in writing to waive confidentiality of the counseling process for the purpose of allowing the designated counselor to contact the employing office or to attempt a resolution of the disputed matter. A written record of all such contacts must be kept by the counselor and made available for review by the affected person(s).
 4. **Form of settlement** - The EDR Coordinator shall reduce to writing any settlement achieved during the counseling process and secure the signatures of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing office's behalf.
- D. Duration of counseling period** - The period for counseling shall be 30 days (or a shorter period if counseling is concluded at an earlier date), beginning on the date that the request for counseling is received by the EDR Coordinator.
- E. Conclusion of the counseling period and notice** - The EDR Coordinator shall notify the employee in writing of the end of the counseling period. As part of the notice, the EDR Coordinator shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the EDR Coordinator a request for mediation in accordance with Section 6 of this Chapter.

§ 6 Mediation

- A. Initiation** - Within 15 days after receipt by the employee of the notice of the conclusion of the counseling period, the employee may file with the EDR Coordinator a request for mediation. The request must be made in writing and must state the claim(s) presented. An approved form of Request for Mediation is attached as Attachment B. Failure to pursue mediation will preclude further processing of the employee's claim under any other provisions of this Chapter.
- B. Procedures** -
1. **Designation of mediator** - As soon as possible after receiving the request for mediation, the EDR Coordinator shall designate a mediator and provide written notice of such designation.

2. **Who may serve as mediator** - Any person with the skills to assist in resolving disputes, except the court's EDR Coordinator, may serve as a mediator under this Plan. If the complaint alleges that a judicial officer has violated the rights protected by this Plan, the mediator shall be a judicial officer designated by the chief judge.

In the District of Maryland, a U.S. Magistrate Judge serving in the Southern Division shall be the mediator for disputes brought by an employee assigned to the Northern Division, and a U.S. Magistrate Judge serving in the Northern Division shall be the mediator for disputes brought by an employee assigned to the Southern Division.

3. **Purpose of mediation** - The mediator shall meet separately and/or jointly with the employee and his or her representative, if any, and the employing office to discuss alternatives for resolving a dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution.
4. **Confidentiality** - Any person or party involved in the mediation process shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process, except as necessary to consult with the parties or their representatives, and then only with notice to all parties. A written record of all such contacts must be kept and made available for review by the affected person(s). In addition, in the event the employee files a complaint pursuant to Section 7 of this Chapter, the hearing officer shall have access to the record of any claims raised in mediation.
5. **Form of settlement** - The mediator shall reduce to writing any settlement achieved during the mediation process and secure the signature of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing office's behalf.

C. Duration of mediation period - The mediation period shall be 30 days (or a shorter period if mediation is concluded at an earlier date), beginning on the date the request for mediation is received. The employee is required to attend at least one mediation session. Thereafter, he or she may proceed to file a complaint.

D. Conclusion of mediation period and notice - If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the EDR Coordinator shall provide the employee, the employee's representative, if any, and the employing office with written notice that the mediation period has concluded. The notice shall also inform the employee of his or her right to file a complaint under Section 7 of this Chapter.

§ 7 Complaint, review and hearing

A. Complaint - Not later than 15 days after receiving written notice of the end of the mediation period, the employee, provided that he or she participated in the mediation as required, may file a complaint with the chief judge using the form approved by the court (see approved form attached as Attachment C). The complaint shall be in writing, shall identify the complainant and all involved parties and individuals, and shall set forth a short and plain statement of the complainant's claim and the relief or remedy being sought. The respondent shall be the employing office which would be responsible for redressing, correcting or abating the violation(s) alleged in the complaint. No individual shall be named as a respondent in the complaint.

B. Review of pleadings

1. **Reviewing official** - The complaint and any other documents shall be reviewed by the chief judge of the court. In the event the chief judge chooses not to serve as the reviewing official, is not available to serve, or has disqualified or recused himself or herself under Section 4 of this Chapter, the chief judge shall designate one or more Article III judge(s) to serve as the reviewing official(s). In the case of a complaint alleging that an Article III judge has violated rights protected by the Plan, the complaint shall be reviewed and decided by a judge of another court, as designated by the judicial council of the circuit. Any designation of a judicial officer from another court to hear and decide the case shall be arranged by agreement of the chief judges of the affected courts.
2. **Review procedures** - After notice to the complainant and an opportunity to respond, the chief judge or designated judicial officer may dismiss in writing any complaint that is found to be frivolous, unduly repetitive of a previous complaint, that fails to state a claim upon which relief may be granted, or that makes claims that were not advanced in mediation.

C. Hearing procedures

1. **Hearing officer** - If the chief judge or designated judicial officer does not dismiss the complaint under the preceding subsection, the chief judge or designated judicial officer, acting as the hearing officer, shall hold a hearing on the merits of the complaint unless he or she determines that no material factual dispute exists.
2. **Specific provisions** - The presiding judicial officer may provide for such discovery and investigation as is necessary. In general, the presiding judicial officer shall determine the time, place, and manner of conducting the hearing. However, the following specific provisions shall apply to hearings conducted under this Section:
 - a. the hearing shall be commenced no later than 60 days after the filing of the complaint;

- b. the complainant and the head of the office against which the complaint has been filed must receive written notice of the hearing; such notice shall also be provided to the individual alleged to have violated rights protected by this Plan whenever such individual is a judicial officer or when the presiding judicial officer otherwise determines such notice to be appropriate;
- c. at the hearing, the complainant and the respondent will have the right to be represented, to present evidence, and to cross-examine adverse witnesses;
- d. a verbatim record of the hearing must be kept and shall be the sole official record of the proceeding;
- e. in reaching his or her decision, the chief judge or designated judicial officer shall be guided by judicial and administrative decisions under the laws related to Chapters II through VII of this Plan and by decisions of the judicial council of the appropriate circuit under Section 8 of this Chapter;
- f. remedies may be provided in accordance with Section 9 of this Chapter where the hearing officer finds that the complainant has established by a preponderance of the evidence that a substantive right protected by this Plan has been violated;
- g. the final decision of the chief judge or designated judicial officer must be issued in writing not later than 30 days after the conclusion of the hearing; and
- h. all persons entitled to written notice under par. 2.b. above shall have the right to written notice of any action taken as a result of the hearing.

§ 8 Review of decision - A party or individual aggrieved by a final decision of the chief judge or designated judicial officer, or by a summary dismissal of the complaint, may petition for review of that decision under procedures established by the judicial council of the circuit. Any review will be conducted by a judicial officer(s), based on the record created by the hearing officer, and shall be affirmed if supported by substantial evidence.

§ 9 Remedies

- A. Where judicial officers acting pursuant to section 7 or 8 of this Plan find that a substantive right protected by this Plan has been violated, they may order a necessary and appropriate remedy. A remedy may be directed at correcting a past violation, prospectively insuring compliance with the rights protected by this Plan, or both. A remedy shall be tailored as closely as possible to the specific violation involved.
- B. Remedies which may be provided to successful complainants under this Plan include, but are

not limited to:

1. placement of an employee in a position previously denied;
2. placement in a comparable alternative position;
3. reinstatement to a position from which previously removed;
4. prospective promotion to a position;
5. priority consideration for a future promotion or position;
6. back pay and associated benefits, including attorney's fees, where the statutory criteria of the Back Pay Act, 5 U.S.C. § 5596, are satisfied;
7. records modification and/or expungement;
8. "equitable" relief, such as temporary stays of adverse actions;
9. granting of family and medical leave; and
10. accommodation of disabilities through the purchase of specialized equipment or the restructuring of duties and work hours.

C. Remedies which are *not* legally available include:

1. payment of attorney's fees (except as authorized under the Back Pay Act);
2. compensatory damages; and
3. punitive damages.

§ 10 Record of final decisions - Final decisions under this Plan shall be made available to the public in accordance with procedures established by the judicial council of the circuit.

ATTACHMENT A

REQUEST FOR COUNSELING UNDER EDR PLAN

Submitted Under the Procedures of the Employment Dispute Resolution Plan for the
District Court for the District of Maryland

Prior to completing this form, please refer to the Employment Dispute Resolution Plan for your court unit. Please complete this form legibly.

1. Full Name of Person Requesting Counseling_____
2. Mailing Address _____

3. Home Phone(_____) _____ Work Phone(_____) _____
4. If you are a court employee, state the following:
Court Unit in which employed_____
- Job Title_____
5. Name and address of the office from which you seek resolution of your dispute.

6. Date(s) of alleged incident or decision giving rise to this dispute: _____
7. Please summarize the actions or occurrences giving rise to this dispute.

8. Are you willing to waive confidentiality in order to permit the counselor to contact the employing office or to attempt a resolution of the disputed matter? ☐ yes ☐ no
9. What corrective action do you seek in this matter?

This request for counseling is submitted by:

Signature

Date

Name of Counselor to whom submitted: _____

Counselor's Signature _____

Date of Receipt: _____

ATTACHMENT B

REQUEST FOR MEDIATION UNDER EDR PLAN

Submitted Under the Procedures of the Employment Dispute Resolution Plan for the
District Court for the District of Maryland

Prior to completing this form, please refer to the Employment Dispute Resolution Plan for
your court unit. Please complete this form legibly.

**Please attach a copy of the REQUEST FOR COUNSELING FORM filed in connection
with this matter.**

1. Full Name of Person Requesting Mediation _____
2. If any of the information supplied in the REQUEST FOR COUNSELING UNDER EDR PLAN filed
in connection with this matter is no longer accurate, please state the nature and reason for the change.

3. Date counseling was initiated _____
4. Date of receipt of the notice of conclusion of counseling _____
5. Name of person who provided counseling _____

This request for mediation is submitted by:

Signature

Date

Name of person to whom submitted: _____

Signature of recipient _____

Date of receipt: _____

COMPLAINT UNDER EDR PLAN

Filed Under the Procedures of the Employment Dispute Resolution Plan for the
District Court for the District of Maryland

Prior to completing this form, please refer to the Employment Dispute Resolution Plan for your court unit. Please complete this form legibly.

1. Full Name of Person Filing Complaint_____
2. Mailing Address_____

3. Home Phone(____)_____ Work Phone(____)_____
4. If you are a court employee, state the following:

Court Unit in which employed_____
Job Title_____
5. Name and address of the Employing Office against whom this complaint is filed
(under the terms of the EDR Plan, all complaints must be filed against an "Employing Office",
not an individual): _____

6. Identify the Chapter(s) of the EDR Plan under which your complaint is being filed.
 - ☐ Chapter II- Equal Employment Opportunity & Anti-Discrimination Rights
 - ☐ Race
 - ☐ Color
 - ☐ Religion
 - ☐ Gender/Sex (includes sexual harassment)
 - ☐ National Origin
 - ☐ Age
 - ☐ Disability
 - ☐ Sexual Orientation
 - ☐ Chapter III- Family and Medical Leave Rights
 - ☐ Chapter IV- Worker Adjustment and Retraining Notification Rights
 - ☐ Chapter V- Employment and Reemployment Rights of Members of
the Uniformed Services
 - ☐ Chapter VI- Occupational Safety and Health Protections

9

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What corrective action do you seek from your complaint?

13. Do you have an attorney or any other person who represents you in this matter?

☐ Yes

☐ No

If yes, please provide the following information concerning that person:

Name_____

Address_____

Work Phone(____)_____Fax(____)_____

I affirm that the information provided in this complaint is true and correct to the best of my knowledge.

Signature

Date

APPENDIX #7

**GRIEVANCE PROCEDURE FOR THE UNITED STATES
DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

GRIEVANCE PROCEDURE FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

PURPOSE

The grievance procedure provides a just and equitable method for the resolution of grievances without discrimination, coercion, restraint, or reprisal against any employee or employees who may submit or be involved in a grievance. The procedures set forth herein are designated to promote favorable relations between employees and management, as well as among employees, by resolving grievances expeditiously, and to correct the cause of the grievance, if possible, so as to prevent similar complaints.

WHO MAY FILE A GRIEVANCE

Any employee of the court shall have the right to file a grievance in the manner set forth herein.

PROHIBITION FROM DENIAL

Every officer, employee, or supervisor of this court is prohibited from denying an employee the opportunity to present a grievance or subjecting an employee who desires to file a grievance to threats, duress, harassment, or any overt or covert acts of reprisal.

INFORMAL PROCEDURE

An employee who has a problem or complaint should first report it to his/her immediate supervisor. Every employee and supervisor shall make every reasonable effort to find an acceptable solution by informal, amicable discussion. This procedure shall be prerequisite to the filing of a formal, written grievance. In situations where the nature of the problem involves the immediate supervisor, the employee may discuss the problem informally with the next level supervisor.

FORMAL PROCEDURE

If an employee is not satisfied with the decision rendered by his/her immediate supervisor under the informal procedure, the employee may present the grievance in writing within five working days to the next level supervisor. The next level supervisor shall review the written grievance and shall hold private discussions with the employee concerning the problem. The supervisor may also discuss the grievance and consult with any other appropriate person in an effort to resolve the problem. If the problem cannot be resolved at this level, the supervisor shall, within five working days of receipt of the written grievance, make a written assessment of the problem and of the efforts made toward resolving it. Both the written grievance and the written assessment shall then be brought to the attention of the Chief Deputy and the District Clerk.

The written grievance, the assessment, and any decisions shall be limited to the issue(s) directly

involved in the grievance and shall not include unrelated complaints or comments of a personal nature concerning other Clerk's office or court agency employees or chambers' staff.

Within five working days following receipt of the written grievance and assessment, the District Clerk shall render a decision in writing to the employee personally. If the employee fails to take further action within five working days after receipt of the District Clerk's decision, the grievance shall be deemed abandoned.

In the event the employee is dissatisfied with the decision of the District Clerk, he/she shall submit the matter in writing to the Chief Judge.

EMPLOYEES OF THIS COURT SHALL NOT APPROACH ANY JUDGE OF THIS COURT DIRECTLY OR INDIRECTLY ON ANY PERSONAL GRIEVANCE WITHOUT FIRST FOLLOWING THE GRIEVANCE PROCEDURE SET FORTH ABOVE.

APPENDIX #8

ADVERSE PERSONNEL ACTION PROCEDURES

ADVERSE PERSONNEL ACTION PROCEDURES

**U.S. District Court
District of Maryland
4415 U.S. Courthouse
101 West Lombard Street
Baltimore, Maryland 21201
(410) 962-2600**

ADVERSE PERSONNEL ACTION

Guidelines and Suggestions

These guidelines do not attempt to determine when and under what circumstances an adverse personnel action may be appropriate, nor are they intended to undermine the authority of the officers of the United States Courts to appoint and remove employees at their discretion; but, rather, are intended to provide the basis for fair and equitable procedures which are consistent with current personnel practices.

Adverse Action

An adverse action is any personnel action initiated by management which adversely affects a permanent employee's pay or position. Such action is based on poor performance, misconduct, or other good reason, and includes:

- a) removal or involuntary termination (other than the abolition of a position);
- b) suspension with or without pay;
- c) involuntary reassignment to a lesser position;
- d) demotion;
- e) or a performance rating of "fair" or "unsatisfactory" which results in the employee being denied a within-grade increase.

All reasonable efforts to improve an employee's job performance to an acceptable level must be exhausted before initiating an adverse action against that employee. These guidelines address the situation when those efforts have failed and an adverse action becomes unavoidable.

Definitions

1. Documentation

This refers to the physical evidence which supports and justifies the need for the adverse personnel action. It may take the form of letters or memoranda of warning or reprimand, notes for the record, telephone conversations, leave records, examples of poor quality work, records of efforts that were made to correct the situation, etc. Documentation is especially important if the adverse action is being taken notwithstanding the fact that the employee has a current performance rating of "Good," "Very Good," or "Excellent."

2. Time Limit

The number of calendar days, including Saturdays, Sundays, and holidays, within which an individual must take a specific action. If the last day of the time limit is a non-workday, the limit is automatically extended to the next workday.

3. Calendar Day

This is the 24 hour period between 12 midnight and 12 midnight. Computation of time limits begins on the first full calendar day after an event occurs.

Procedure

The procedure followed in an adverse action is as follows:

1. Notice of Proposed Action

Except under unusual circumstances, the Clerk will prepare a notice of proposed adverse action in the form of a letter or memorandum to the employee. This notice will:

- a. cite all pertinent information which justified the adverse action;
- b. summarize the efforts that were made to correct the situation;
- c. advise the employee of the nature of the proposed adverse action and the proposed effective date;
- d. advise the employee of his or her right to make written request for a hearing to the Chief Judge or the Chief Judge's designee within ten (10) calendar days; and
- e. advise the employee of his or her right to be represented in the hearing.

The employee also has the option of replying to the Clerk, verbally or in writing, concerning the contents of the notice. This does not preclude any hearing request.

A circumstance in which a notice of proposed adverse action is not given to the employee is covered under step 6, "Notice of Adverse Action."

2. Request for Hearing

If the employee desires a hearing on the adverse action or proposed adverse action, he or she must submit a letter or memorandum asking for the hearing to the Chief Judge. The request must be made within ten (10) calendar days of the employee's receipt of the notice of proposed adverse action or notice of adverse action.

3. Notice of Hearing

Within fifteen (15) calendar days of receipt of the request for hearing, the Chief Judge or his designee must advise each party in the action of the date and time the hearing will be held. The hearing should be scheduled within a reasonable amount of time from receipt of the request for hearing.

4. Hearing

The hearing is an administrative procedure in which the circumstances surrounding the adverse action are reviewed. The hearing may be attended by the employee, the employee's representative (if any), the Clerk, and the Clerk's representative (if any). The hearing is a forum for presenting mitigating factors and a means of ensuring that the final decision is not based on any factual inaccuracies. The hearing is not intended to be an adversarial proceeding or a formal trial. Formal rules of evidence and procedures will not apply and there is no burden of proof upon management. The Chief Judge or his designee will decide the manner in which the hearing will be conducted, whether witnesses may be presented, the necessity of making a record, and the time, location, and duration of the proceeding.

5. Notice of Decision

Within fifteen (15) calendar days of the conclusion of the hearing, all interested parties will be advised in writing of the decision. They will be provided with a statement of the reason for that decision and will be advised that the decision of the Chief Judge or his designee is final and no further administrative remedy is available.

If it is found that the adverse action or proposed adverse action is totally without merit, then the notice will also advise all parties that any documents which were generated as a result of the adverse action or proposed adverse action are to be removed from the employee's record.

If, however, the decision is to approve or modify the proposed adverse action, the Clerk may proceed to issue notice of adverse action and all documents remain part of the employee's record.

6. Notice of Adverse Action

Once the proposed action has been approved, the Clerk shall prepare a letter or memorandum to the employee advising the employee of the nature of the adverse action and the date it takes effect, and the reasons in support of the adverse action. The effective date

should allow the employee a reasonable period of advance notice.

If the employee was not previously advised of his or her right to request a hearing before the Chief Judge, this notice of adverse action must advise the employee of that right. It is preferable, but not mandatory, that any hearing requested be granted prior to the effective date of the action.

If the notice of adverse action is issued without a notice of the proposed action having previously been issued, the notice of adverse action must contain all of the elements of a notice of proposed action. In addition, it must advise the employee that if the action is vacated as a result of the hearing before the Chief Judge, the employee will be returned to his or her prior status as if no action had been taken, and all related documents will be removed from the employee's record.

7. Exceptions

On extraordinary occasions, the Clerk may determine that the employee's continued presence in the office during the adverse action process poses a threat to the employee, to fellow workers, or to the public. The Clerk may determine that the employee's presence could result in loss of or damage to government property, records, or documents of cases before the court, or adversely affect the operation of the court, or otherwise jeopardize government interests. The Clerk may then initiate one of the following actions:

- a. In extreme cases where immediate removal of an employee is deemed necessary, the employee can be placed in a non-duty status with pay for a maximum of five (5) days, during which the notice of proposed action must be prepared.
- b. Assign the employee to duties where he or she is no longer a threat.
- c. With the employee's consent, place the employee on annual leave, administrative leave, sick leave, or leave without pay pending resolution of the proposed adverse action.
- d. Place the employee on involuntary sick leave, if the Clerk has medical documentation demonstrating physical or mental incapacitation.

If none of these alternatives is appropriate, the Clerk may place the employee in a paid, non-duty status (excused absence without charge to leave) during all or part of the adverse action period, provided that it is in the interests of the office.

8. Criminal Indictment

It should be noted that the fact an employee is indicated or arrested may not provide sufficient cause for instituting an adverse action proceeding and should not be used because a subsequent acquittal would in effect vacate the cause for action. Therefore, the adverse action should be based on the misconduct that led to the arrest, provided there is sufficient evidence to prove misconduct or to warrant suspension pending further investigation. Thus, any court action on the criminal proceedings would not affect the adverse action.

In those instances where the possibility of criminal proceedings exists and the individual must be consulted, his due process rights must be protected by reading the following warning to him verbatim:

1. You have the right to have a lawyer present to advise you either prior to any questioning or during any questioning.
2. If you are unable to employ a lawyer, you have the right to have a lawyer appointed to counsel with you prior to or during any questioning, and
3. You have the right to remain silent and not make any statement at all and that any statement you make may and probably will be used in evidence against you at your trial.
4. You have the right to terminate the interview at any time.
5. To proceed with the interview you must knowingly, intelligently, and voluntarily waive your right to counsel and your right to remain silent as evidenced by your signature below.

(Date)

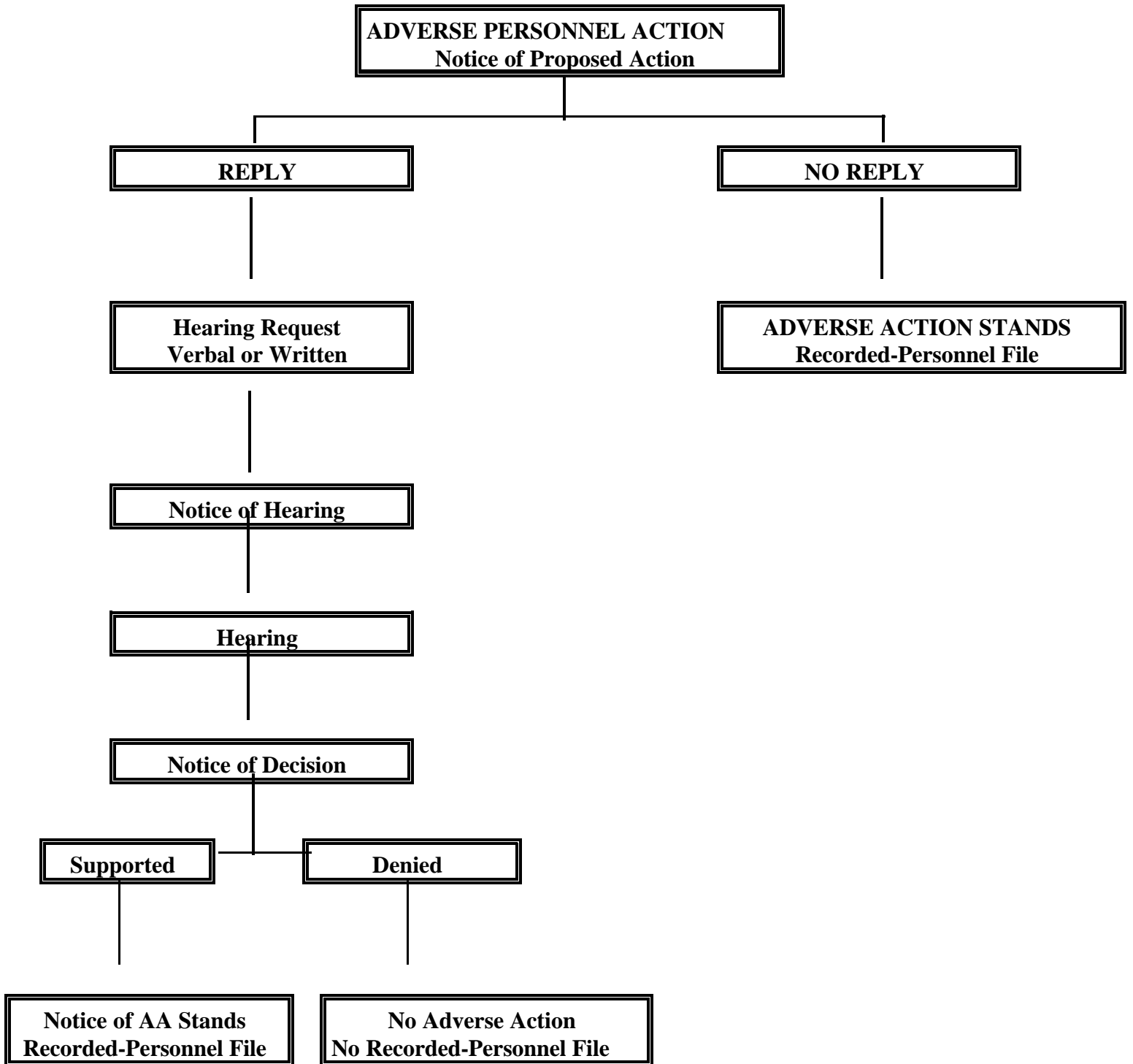
(Witness) (Date)

Failure to strictly comply with the above may void any confession.

NOTES: 1) The General Counsel's Office should be contacted as soon as possible for guidance and assistance in processing adverse actions.

- 2) Models of Adverse Action procedures may also be obtained by contacting the Human Resources Division.

ADVERSE PERSONNEL ACTION



APPENDIX #9

SEXUAL HARASSMENT

SEXUAL HARASSMENT

In accordance with applicable law, it is the policy of the District Court for the District of Maryland to provide for all its employees a working environment free from sexual harassment. Prompt, effective action will be taken by the management of the Clerk's office in response to a justified complaint of prohibited conduct.

Sexual harassment is a form of sex discrimination prohibited under Title VII of the Civil Rights Act of 1964. The Equal Opportunity Employment Commission has defined such harassment as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Verbal and non-verbal behavior with a sexual content which may constitute sexual harassment covers a broad range of potential infractions between or among individuals. The key to identifying sexual harassment is that actions and remarks become sexual harassment when they are unwelcome.

Some examples of behavior which may be formed to constitute sexual harassment are:

- Sexually oriented remarks about a person's clothing, body or sexual activities;

- Leering, ogling or staring at a person's body;
- Sexually oriented jokes, stories or remarks;
- Descriptions of sex acts, boasting about sexual prowess, posting of suggestive pictures, drawings, poems, limericks;
- Unwelcome touching, patting or brushing against another person's body;
- Verbal harassment or abuse referring to a person's gender, sexual preference or sexual activities;
- Pressure for dates or sexual activity;
- Unwelcome telephone calls, letters or home visits with sexual overtones;
- Demands for sexual favors with implied threats related to job benefits or opportunities. This is known as quid pro quo harassment.

In the event that any employee has experienced an incident of sexual harassment, the incident should be written down by the person who was harassed, with the written record to include:

1. The date and time of the incident;
2. Where it occurred;
3. A description of what happened;
4. What was said by both the harasser and you as the person who was harassed;
5. How you felt during and after the incident;
6. The names of any witnesses and any other people who were harassed by the same person at that time; and
7. The names of anyone you told.

This record should be as accurate as possible and should be written as soon as possible after the incident occurred.

With an accurate written record on hand, the following options are available to the employee who wishes to protest an incident or incidents of sexual harassment:

1. Communicate to the harasser that you want the objectionable behavior to cease.

This may be done orally or by means of a memorandum. The following example is a basic form of memorandum in such a situation:

From: (Name)
To: (Name
Date: _____

On (date) at approximately (time) in or at (place), you (describe offensive behavior). Your behavior constitutes unlawful sex discrimination under the Equal Employment Opportunity Commission guidelines (see attachment).⁵

This memorandum is my (number of times you have asked him to stop) and final request that you stop this behavior immediately.

If you continue, I will have no choice but to take formal action.

2. In the alternative, you may report the harassment to your supervisor and ask that it be stopped. If your supervisor is harassing you, report it to the supervisor's superior.
3. In the event that these actions are unsuccessful in stopping the harassment, you may proceed to file a formal equal employment opportunity complaint.

In order to initiate this form of remedy, please refer to the court's Model Employment Dispute

⁵Attachment:

The Equal Employment Opportunity Commission's 1980 guidelines on sexual harassment, 29 Code of Federal Regulations (CFR) Section 1604.11 provide:

Harassment on the basis of sex is a violation of Sec. 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment,
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or,
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Resolution Plan (*Appendix #6*).

If you are found to have suffered sex discrimination in the form of harassment, you must be provided with full relief. According to the Equal Employment Opportunity Commission, full relief includes:

- Notice to all employees in your work area of the right to be free from discrimination and assurance that sex harassment will not recur;
- An agency commitment to prevent recurrence via corrective and preventive action;
- Placing you in the job you would have held if the harassment had not occurred;
- Payment of back pay for any loss of earnings the harassment might have caused. You must be provided with a retroactive promotion with back pay if the harassment had the effect of depriving you of promotion. Any employee complaining of sexual harassment is protected against retaliation as a result of such complaint and has the right to file a complaint against anyone believed to have carried out such retaliation.

APPENDIX #10

SUBSTANCE ABUSE POLICY

**UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
DISTRICT OF MARYLAND**

SUBSTANCE ABUSE POLICY

The United States District Court for the District of Maryland absolutely prohibits the use, consumption, sale, purchase, transfer or possession of any illegal drug by any employee during working hours while employed by the court. In addition, employees are strictly prohibited from being under the influence of a chemical substance (drugs or alcohol) during working hours to the extent that it adversely affects judgment, job performance or behavior.

An “illegal drug” is defined for the purpose of this policy as any drug that (1) is not legally obtainable; or (2) is legally obtainable, but has not been legally obtained, i.e., medication used by an employee who is not the prescription holder.

Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program. Any employee seeking such assistance is encouraged to meet with his/her supervisor or the Clerk to discuss the situation before problems begin to surface in the workplace. Any disclosures made by an employee will be treated on a confidential basis by the supervisor and only addressed in the context of job performance and/or conduct. This policy does not, however, prohibit supervisors from sharing information with the Clerk of Court or Chief Judge on a need-to-know basis or from making any disclosures that may be legally required. The employee’s decision to seek assistance will not be used as the basis for disciplinary action or used against the employee in any disciplinary proceeding.

Violation of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.

APPENDIX #11

NACM GLOSSARY OF TERMS

NACM

GLOSSARY OF TERMS

This glossary defines a number of legal terms in common use that generally are not understood. The following definitions are not legal definitions of these terms. Most of them have very definite legal meanings that vary from one state to another. These are merely plain-English definitions intended to give you a general idea of the meanings.

A

Abstract of title: A chronological summary of all official records and recorded documents affecting the title to a parcel of real property.

Accomplice: 1. A partner in a crime. 2. A person who knowingly and voluntarily participates with another in a criminal activity.

Acknowledgment: 1. A statement of acceptance of responsibility. 2. The short declaration at the end of a legal paper showing that the paper was duly executed and acknowledged.

Acquit: To find a defendant not guilty in a criminal trial.

Action: Case, cause, suit or controversy disputed or contested before a court of justice.

Additur: An increase by a judge in the amount of damages awarded by a jury.

Adjudication: Giving or pronouncing a judgment or decree. Also the judgment given.

Ad Litem: A Latin term meaning for the purposes of the lawsuit. For example, a guardian adlitem is a person appointed by the court to protect the interests of a minor or legally incompetent person in a lawsuit.

Administrator: 1. One who administers the estate of a person who dies without a will. 2. A court official.

Admissible evidence: Evidence that can be legally and properly introduced in a civil or criminal trial.

Admonish: To advise or caution. For example, the court may caution or admonish counsel for wrong practices.

Adversary System: The trial method used in the U.S. and some other countries. This system is based on the belief that truth can best be determined by giving opposing parties full opportunity to present and establish their evidence, and to test by cross-examination the evidence presented by their adversaries. All this is done under the established rules of procedure before an impartial judge and/or jury.

Affiant: A person who makes and signs an affidavit.

Affidavit: A written statement of facts confirmed by the oath of the party making it, before a notary or officer having authority to administer oaths. For example, in criminal cases, affidavits are often used by police officers seeking to convince courts to grant a warrant to make an arrest or a search. In civil cases, affidavits of witnesses are often used to support motions for summary judgment.

Affirmative Defense: Without denying the charge, the defendant raises circumstances such as insanity, self-defense, or entrapment to avoid civil or criminal responsibility.

The National Association for Court Management wishes to acknowledge that this Glossary was based upon the excellent material already prepared by the American Bar Association, the Administrative Office of the United States Courts, the Washington State Administrative Office of the Courts and the Idaho Administrative Office of the Courts. This material may be replicated for business use only.

Affirmed: In the practice of appellate courts, the word means that the decision of the trial court is correct.

Aid and Abet: To actively, knowingly or intentionally assist another person in the commission or attempted commission of a crime.

Allegation: A statement of the issues in a written document (a pleading) which a person is prepared to prove in court. For example, an indictment contains allegations of crimes against the defendant.

Alternative dispute resolution: Settling a dispute without a full, formal trial. Methods include *mediation*, *conciliation*, *arbitration*, and *settlement*, among others.

Amicus curiae (a-mi'kus ku'ri-e): A friend of the court. One not a party to a case who volunteers to offer information on a point of law or some other aspect of the case to assist the court in deciding a matter before it.

Answer: The defendant's response to the plaintiff's allegations as stated in a complaint. An item-by-item, paragraph-by-paragraph response to points made in a complaint; part of the pleadings.

Appeal: A request made after a trial, asking another court (usually the court of appeals) to decide whether the trial was conducted properly. To make such a request is "to appeal" or "to take an appeal." One who appeals is called the appellant.

Appearance: 1. The formal proceeding by which a defendant submits to the jurisdiction of the court. 2. A written notification to the plaintiff by an attorney stating that he or she is representing the defendant.

Appellate court: A court having jurisdiction to hear appeals and review a trial court's procedure.

Appellee (ap-e-le'): The party against whom an appeal is taken. Sometimes called a *respondent*.

Arbitration: A form of *alternative dispute resolution* in which the parties bring their dispute to a neutral third party and agree to abide by his or her decision. In arbitration there is a hearing at which both parties have an opportunity to be heard.

Arraignment: A proceeding in which an individual who is accused of committing a crime is brought into

court, told of the charges, and asked to plead guilty or not guilty. Sometimes called a *preliminary hearing* or *initial appearance*.

Arrest: To take into custody by legal authority.

Assault: Threat to inflict injury with an apparent ability to do so. Also, any intentional display of force that would give the victim reason to fear or expect immediate bodily harm.

At issue: The time in a lawsuit when the complaining party has stated their claim and the other side has responded with a denial and the matter is ready to be tried.

Attachment: Taking a person's property to satisfy a court-ordered debt.

Attorney-at-law: An advocate, counsel, or official agent employed in preparing, managing, and trying cases in the courts.

Attorney-in-fact: A private person (who is not necessarily a lawyer) authorized by another to act in his or her place, either for some particular purpose, as to do a specific act, or for the transaction of business in general, not of legal character. This authority is conferred by an instrument in writing, called a *letter of attorney*, or more commonly a *power of attorney*.

Attorney of record: The principal attorney in a lawsuit, who signs all formal documents relating to the suit.

B

Bail: Money or other security (such as a *bail bond*) provided to the court to temporarily allow a person's release from jail and assure their appearance in court. "Bail" and "bond" are often used interchangeably.

Bail bond: An obligation signed by the accused to secure his or her presence at the trial. This obligation means that the accused may lose money by not properly appearing for the trial. Often referred to simply as *bond*.

Bailiff: A court attendant who keeps order in the courtroom and has custody of the jury.

Bankruptcy: Refers to statutes and judicial proceedings involving persons or businesses that cannot pay their debts and seek the assistance of the court in getting a fresh start. Under the protection of the bankruptcy court, debtors may be released from or “discharged” from their debts, perhaps by paying a portion of each debt. Bankruptcy judges preside over these proceedings. The person with the debts is called the debtor and the people or companies to whom the debtor owes money to are called creditors.

Bar: 1. Historically, the partition separating the general public from the space occupied by the judges, lawyers, and other participants in a trial. 2. More commonly, the term means the whole body of lawyers.

Bar Examination: A state examination taken by prospective lawyers in order to be admitted and licensed to practice law.

Battery: A beating, or wrongful physical violence. The actual threat to use force is an *assault*; the use of it is a battery, which usually includes an assault.

Bench: The seat occupied by the judge. More broadly, the court itself.

Bench trial: Trial without a jury in which a judge decides the facts.

Bench Warrant: An order issued by a judge for the arrest of a person.

Beneficiary: Someone named to receive property or benefits in a will. In a trust, a person who is to receive benefits from the trust.

Bequeath: To give a gift to someone through a will.

Bequests: Gifts made in a will.

Best Evidence: Primary evidence; the best evidence available. Evidence short of this is “secondary.” That is, an original letter is “best evidence,” and a photocopy is “secondary evidence.”

Beyond A Reasonable Doubt: The standard in a criminal case requiring that the jury be satisfied to a moral certainty that every element of a crime has been proven by the prosecution. This standard of proof does not require that the state establish absolute certainty by eliminating all doubt, but it does require that the

evidence be so conclusive that all reasonable doubts are removed from the mind of the ordinary person.

Bill of Particulars: A statement of the details of the charge made against the defendant.

Bind Over: To hold a person for trial on bond (bail) or in jail. If the judicial official conducting a hearing finds probable cause to believe the accused committed a crime, the official will bind over the accused, normally by setting bail for the accused’s appearance at trial.

Booking: The process of photographing, fingerprinting, and recording identifying data of a suspect. This process follows the arrest.

Brief: A written statement prepared by one side in a lawsuit to explain to the court its view of the facts of a case and the applicable law.

Burden of proof: In the law of evidence, the necessity or duty of affirmatively proving a fact or facts in dispute on an issue raised between the parties in a lawsuit. The responsibility of proving a point (the burden of proof) is not the same as the standard of proof. *Burden of proof* deals with which side must establish a point or points; *standard of proof* indicates the degree to which the point must be proven. For example, in a civil case the burden of proof rests with the plaintiff, who must establish his or her case by such standards of proof as a **preponderance of evidence or clear and convincing evidence.**

C

Capital crime: A crime punishable by death.

Calendar: List of cases scheduled for hearing in court.

Caption: The heading on a legal document listing the parties, the court, the case number, and related information.

Case law: Law established by previous decisions of appellate courts, particularly the Supreme Court.

Cause: A lawsuit, litigation, or action. Any question, civil or criminal, litigated or contested before a court of justice.

Cause of action: The facts that give rise to a lawsuit or

a legal claim.

Caveat: A warning; a note of caution.

Certification: 1. Written attestation. 2. Authorized declaration verifying that an instrument is a true and correct copy of the original.

Certiorari: A means of getting an appellate court to review a lower court's decision. The loser of a case will often ask the appellate court to issue a *writ of certiorari*, which orders the lower court to convey the record of the case to the appellate court and to certify it as accurate and complete. If an appellate court grants a writ of certiorari, it agrees to take the appeal. This is often referred to as *granting cert*.

Challenge: An objection, such as when an attorney objects at a hearing to the seating of a particular person on a civil or criminal jury.

Challenge for Cause: Objection to the seating of a particular juror for a stated reason (usually bias or prejudice for or against one of the parties in the lawsuit). The judge has the discretion to deny the challenge. This differs from *peremptory challenge*.

Chambers: A judge's private office. A hearing in chambers takes place in the judge's office outside of the presence of the jury and the public.

Change of venue: Moving a lawsuit or criminal trial to another place for trial.

Charge to the jury: The judge's instructions to the jury concerning the law that applies to the facts of the case on trial.

Chief Judge: Presiding or Administrative Judge in a court.

Circumstantial Evidence: All evidence except eyewitness testimony. One example is physical evidence, such as fingerprints, from which an inference can be drawn.

Citation: 1. A reference to a source of legal authority. 2. A direction to appear in court, as when a defendant is *cited* into court, rather than arrested.

Civil Actions: Noncriminal cases in which one private individual or business sues another to protect, enforce,

or redress private or civil rights.

Civil Procedure: The rules and process by which a civil case is tried and appealed, including the preparations for trial, the rules of evidence and trial conduct, and the procedure for pursuing appeals.

Class Action: A lawsuit brought by one or more persons on behalf of a larger group.

Clear and Convincing Evidence: Standard of proof commonly used in civil lawsuits and in regulatory agency cases. It governs the amount of proof that must be offered in order for the plaintiff to win the case.

Clemency or Executive Clemency: Act of grace or mercy by the president or governor to ease the consequences of a criminal act, accusation, or conviction. It may take the form of *commutation or pardon*.

Closing Argument: The closing statement, by counsel, to the trier of facts after all parties have concluded their presentation of evidence.

Codicil (kod'i-sil): An amendment to a will.

Commit: To send a person to prison, asylum, or reformatory by a court order.

Common law: The legal system that originated in England and is now in use in the United States. It is based on judicial decisions rather than legislative action.

Commutation: The reduction of a sentence, as from death to life imprisonment.

Comparative Negligence: A legal doctrine by which acts of the opposing parties are compared to determine the liability of each party to the other, making each liable only for his or her percentage of fault. See also *contributory negligence*.

Complainant: The party who complains or sues; one who applies to the court for legal redress. Also called the *plaintiff*.

Complaint: 1. The legal document that usually begins a civil lawsuit. It states the facts and identifies the action the court is asked to take. 2. Formal written charge that a person has committed a criminal offense.

Conciliation: A form of *alternative dispute resolution* in which the parties bring their dispute to a neutral third party, who helps lower tensions, improve communications, and explore possible solutions. Conciliation is similar to *mediation*, but it may be less formal.

Concurrent sentences: Sentences for more than one crime that are to be served at the same time, rather than one after the other. See also *cumulative sentences*.

Condemnation: The legal process by which the government takes private land for public use, paying the owners a fair price.

Consecutive sentences: Successive sentences, one beginning at the expiration of another, imposed against a person convicted of two or more violations.

Conservatorship: Legal right given to a person to manage the property and financial affairs of a person deemed incapable of doing that for himself or herself. (See also *guardianship*. Conservators have somewhat less responsibility than guardians.)

Contempt of Court: Willful disobedience of a judge's command or of an official court order.

Continuance: Postponement of a legal proceeding to a later date.

Contract: A legally enforceable agreement between two or more competent parties made either orally or in writing.

Contributory Negligence: A legal doctrine that says if the plaintiff in a civil action for negligence also was negligent, he or she cannot recover damages from the defendant for the defendant's negligence. Most jurisdictions have abandoned the doctrine of contributory negligence in favor of *comparative negligence*.

Conviction: A judgment of guilt against a criminal defendant.

Corpus Delicti: Body of the crime. The objective proof that a crime has been committed. It sometimes refers to the body of the victim of a homicide or to the charred shell of a burned house, but the term has a broader meaning. For the state to introduce a confession or to convict the accused, it must prove a corpus delicti,

that is, the occurrence of a specific injury or loss and a criminal act as the source of that particular injury or loss.

Corroborating Evidence: Supplementary evidence that tends to strengthen or confirm the initial evidence.

Counsel: Legal advisor; a term used to refer to lawyers in a case.

Counterclaim: A claim made by the defendant in a civil lawsuit against the plaintiff. In essence, a counter lawsuit within a lawsuit.

Court Administrator/Clerk of court: An officer appointed by the court or elected to oversee the administrative, non-judicial activities of the court.

Court: Government entity authorized to resolve legal disputes. Judges sometimes use "court" to refer to themselves in the third person, as in "the court has read the briefs."

Court Costs: The expenses of prosecuting or defending a lawsuit, other than the attorneys' fees. An amount of money may be awarded to the successful party (and may be recoverable from the losing party) as reimbursement for court costs.

Court reporter: A person who makes a word-for-word record of what is said in court and produces a transcript of the proceedings upon request.

Cross-Claim: A claim by codefendant or coplaintiffs against each other and not against persons on the opposite side of the lawsuit.

Cross-Examination: The questioning of a witness produced by the other side.

Cumulative Sentences: Sentences for two or more crimes to run consecutively, rather than concurrently.

Custody: Detaining of a person by lawful process or authority to assure his or her appearance to any hearing; the jailing or imprisonment of a person convicted for a crime.

D

Damages: Money awarded by a court to a person

injured by the unlawful act or negligence of another person.

Decision: The judgment reached or given by a court of law.

Declaratory Judgment: A judgment of the court that explains what the existing law is or expresses the opinion of the court without the need for enforcement.

Decree: An order of the court. A final decree is one that fully and finally disposes of the litigation. An *interlocutory* decree is a preliminary order that often disposes of only part of a lawsuit.

Defamation: That which tends to injure a person's reputation. *Libel* is published defamation, whereas *slander* is spoken.

Default: A failure to respond to a lawsuit within the specified time.

Default judgment: A judgment entered against a party who fails to appear in court or respond to the charges.

Defendant: In a civil case, the person being sued. In a criminal case, the person accused of the crime.

Demurrer: A motion to dismiss a civil case because of the legal insufficiency of a complaint.

De novo: A new. A *trial de novo* is a new trial of a case.

Deposition: An oral statement made before an officer authorized by law to administer oaths. Such statements are often taken to examine potential witnesses, to obtain discovery, or to be used later in trial.

Descent and Distribution statutes: State laws that provide for the distribution of estate property of a person who dies without a will. Same as *intestacy laws*.

Directed Verdict: Now called Judgment as a matter of Law. An instruction by the judge to the jury to return a specific verdict.

Direct Evidence: Proof of facts by witnesses who saw acts done or heard words spoken.

Direct Examination: The first questioning of

witnesses by the party on whose behalf they are called.

Disbarment: Form of discipline of a lawyer resulting in the loss (often permanently) of that lawyer's right to practice law. It differs *from censure* (an official reprimand or condemnation) and *from suspension* (a temporary loss of the right to practice law).

Disclaim: To refuse a gift made in a will.

Discovery: The pretrial process by which one party discovers the evidence that will be relied upon in the trial by the opposing party.

Dismissal: The termination of a lawsuit. A dismissal without prejudice allows a lawsuit to be brought before the court again at a later time. In contrast, a dismissal with prejudice prevents the lawsuit from being brought before a court in the future.

Dissent: To disagree. An appellate court opinion setting forth the minority view and outlining the disagreement of one or more judges with the decision of the majority.

Diversion: The process of removing some minor criminal, traffic, or juvenile cases from the full judicial process, on the condition that the accused undergo some sort of rehabilitation or make restitution for damages.

Docket: A list of cases to be heard by a court or a log containing brief entries of court proceedings.

Domicile: The place where a person has his or her permanent legal home. A person may have several residences, but only one domicile.

Double Jeopardy: Putting a person on trial more than once for the same crime. It is forbidden by the Fifth Amendment to the U.S. Constitution.

Due Process of Law: The right of all persons to receive the guarantees and safeguards of the law and the judicial process. It includes such constitutional requirements as adequate notice, assistance of counsel, and the rights to remain silent, to a speedy and public trial, to an impartial jury, and to confront and secure witnesses.

E

Elements of a crime: Specific factors that define a crime which the prosecution must prove beyond a reasonable doubt in order to obtain a conviction. The elements that must be proven are (1) that a crime has actually occurred, (2) that the accused intended the crime to happen, and (3) a timely relationship between the first two factors.

Eminent Domain: The power of the government to take private property for public use through *condemnation*.

En Banc: All the judges of a court sitting together. Appellate courts can consist of a dozen or more judges, but often they hear cases in panels of three judges. If a case is heard or reheard by the full court, it is heard en banc.

Enjoining: An order by the court telling a person to stop performing a specific act.

Entrapment: A defense to criminal charges alleging that agents of the government induced a person to commit a crime he or she otherwise would not have committed.

Equal Protection of the Law: The guarantee in the Fourteenth Amendment to the U.S. Constitution that all persons be treated equally by the law. Court decisions have established that this guarantee requires that courts be open to all persons on the same conditions, with like rules of evidence and modes of procedure; that persons be subject to no restrictions in the acquisition of property, the enjoyment of personal liberty, and the pursuit of happiness, which do not generally affect others; that persons are liable to no other or greater burdens than such as are laid upon others, and that no different or greater punishment is enforced against them for a violation of the laws.

Equity: Generally, justice or fairness. Historically, equity refers to a separate body of law developed in England in reaction to the inability of the common-law courts, in their strict adherence to rigid writs and forms of action, to consider or provide a remedy for every injury. The king therefore established the court of chancery, to do justice between parties in cases where the common law would give inadequate redress. The principle of this system of law is that equity will find a way to achieve a lawful result when legal procedure is adequate. Equity and law courts are now merged in most jurisdictions.

Escheat (es-chet): The process by which a deceased person's property goes to the state if no heir can be found.

Escrow: Money or a written instrument such as a deed that, by agreement between two parties, is held by a neutral third party (*held in escrow*) until all conditions of the agreement are met.

Estate: An estate consists of personal property (car, household items, and other tangible items), real property, and intangible property, such as stock certificates and bank accounts, owned in the individual name of a person at the time of the person's death. It does not include life insurance proceeds (unless the estate was made the beneficiary) or other assets that pass outside the estate (like joint tenancy asset).

Estate tax: Generally, a tax on the privilege of transferring property to others after a person's death. In addition to federal estate taxes, many states have their own estate taxes.

Estoppel: A person's own act, or acceptance of facts, which preclude his or her later making claims to the contrary.

Et al: And others.

Evidence: Information presented in testimony or in documents that is used to persuade the fact finder (judge or jury) to decide the case for one side or the other.

Exempt Property: In bankruptcy proceedings, this refers to certain property protected by law from the reach of creditors.

Exceptions: Declarations by either side in a civil or criminal case reserving the right to appeal a judge's ruling upon a motion. Also, in regulatory cases, objections by either side to points made by the other side or to rulings by the agency or one of its hearing officers.

Exclusionary Rule: The rule preventing illegally obtained evidence to be used in any trial.

Execute: To complete the legal requirements (such as signing before witnesses) that make a will valid. Also, to execute a judgment or decree means to put the final judgment of the court into effect.

Executor: A personal representative, named in a will,

who administers an estate.

Exhibit: A document or other item introduced as evidence during a trial or hearing.

Exonerate: Removal of a charge, responsibility or duty.

Ex Parte: On behalf of only one party, without notice to any other party. For example, a request for a search warrant is an ex parte proceeding, since the person subject to the search is not notified of the proceeding and is not present at the hearing.

Ex Parte proceeding: The legal procedure in which only one side is represented. It differs from *adversary system* or *adversary proceeding*.

Ex Post Facto: After the fact. The Constitution prohibits the enactment of ex post facto laws. These are laws that permit conviction and punishment for a lawful act performed before the law was changed and the act made illegal.

Extenuating circumstances: Circumstances which render a crime less aggravated, heinous, or reprehensible than it would otherwise be.

Expungement: Official and formal erasure of a record or partial contents of a record.

Extradition: The process by which one state or country surrenders to another state, a person accused or convicted of a crime in the other state.

F

Family allowance: A small amount of money set aside from the estate of the deceased. Its purpose is to provide for the surviving family members during the administration of the estate.

Felony: A crime of a graver nature than a *misdemeanor*, usually punishable by imprisonment in a penitentiary for more than a year and/or substantial fines.

Fiduciary: A person having a legal relationship of trust and confidence to another and having a duty to act primarily for the other's benefit, e.g., a guardian, trustee, or executor.

File: To place a paper in the official custody of the clerk of court/court administrator to enter into the files or records of a case.

Finding: Formal conclusion by a judge or regulatory agency on issues of fact. Also, a conclusion by a jury regarding a fact.

First appearance: The initial appearance of an arrested person before a judge to determine whether or not there is probable cause for his or her arrest. Generally the person comes before a judge within hours of the arrest. Also called *initial appearance*.

Fraud: Intentional deception to deprive another person of property or to injure that person in some other way.

G

Garnishment: A legal proceeding in which a debtor's money, in the possession of another (called the *garnishee*), is applied to the debts of the debtor, such as when an employer garnishes a debtor's wages.

General jurisdiction: Refers to courts that have no limit on the types of criminal and civil cases they may hear.

Good time: A reduction in sentenced time in prison as a reward for good behavior. It usually is one third to one half off the maximum sentence.

Grand jury: A body of persons sworn to inquire into crime and if appropriate, bring accusations (indictments) against the suspected criminals.

Grantor or Settlor: The person who sets up a trust.

Guardian: A person appointed by will or by law to assume responsibility for incompetent adults or minor children. If a parent dies, this will usually be the other parent. If both die, it probably will be a close relative.

Guardianship: Legal right given to a person to be responsible for the food, housing, health care, and other necessities of a person deemed incapable of providing these necessities for himself or herself. A guardian also may be given responsibility for the person's financial affairs, and thus perform additionally as a conservator. (See also *conservatorship*.)

H

Habeas Corpus: A writ commanding that a person be brought before a judge. Most commonly, a writ of habeas corpus is a legal document that forces law enforcement authorities to produce a prisoner they are holding and to legally justify his or her confinement.

Harmless error: An error committed during a trial that was corrected or was not serious enough to affect the outcome of a trial and therefore was not sufficiently harmful (prejudicial) to be reversed on appeal.

Hearsay: Statements by a witness who did not see or hear the incident in question but heard about it from someone else. Hearsay is usually not admissible as evidence in court.

Hostile witness: A witness whose testimony is not favorable to the party who calls him or her as a witness. A hostile witness may be asked leading questions and may be cross-examined by the party who calls him or her to the stand.

Hung jury: A jury whose members cannot agree upon a verdict.

I

Incarcerate: To confine in jail.

Immunity: Grant by the court, which assures someone will not face prosecution in return for providing criminal evidence.

Impeachment of a witness: An attack on the credibility (believability) of a witness, through evidence introduced for that purpose.

Inadmissible: That which, under the rules of evidence, cannot be admitted or received as evidence.

In Camera: In chambers, or in private. A hearing in camera takes place in the judge's office outside of the presence of the jury and the public.

Independent executor: A special kind of executor, permitted by the laws of certain states, who performs the

duties of an executor without intervention by the court.

Indeterminate sentence: A sentence of imprisonment to a specified minimum and maximum period of time, specifically authorized by statute, subject to termination by a parole board or other authorized agency after the prisoner has served the minimum term.

Indictment: A written accusation by a grand jury charging a person with a crime.

Indigent: Needy or impoverished. A defendant who can demonstrate his or her indigence to the court may be assigned a court-appointed attorney at public expense.

Information: Accusatory document, filed by the prosecutor, detailing the charges against the defendant. An alternative to an *indictment*, it serves to bring a defendant to trial.

In forma Pauperis: In the manner of a pauper. Permission given to a person to sue without payment of court fees on claim of indigence or poverty.

Infraction: A violation of law not punishable by imprisonment. Minor traffic offenses generally are considered infractions.

Inheritance tax: A state tax on property that an heir or beneficiary under a will receives from a deceased person's estate. The heir or beneficiary pays this tax.

Initial appearance: In criminal law, the hearing at which a judge determines whether there is sufficient evidence against a person charged with a crime to hold him or her for trial. The Constitution bans secret accusations, so initial appearances are public unless the defendant asks otherwise; the accused must be present, though he or she usually does not offer evidence. Also called *first appearance*.

Injunction: Writ or order by a court prohibiting a specific action from being carried out by a person or group. A *preliminary injunction* is granted provisionally, until a full hearing can be held to determine if it should be made permanent.

In Propria Persona: In courts, it refers to persons who present their own case without lawyers. See Pro Se.

Instructions: Judge's explanation to the jury before it begins deliberations of the questions it must answer and

the applicable law governing the case. Also called *charge*.

Intangible assets: Nonphysical items such as stock certificates, bonds, bank accounts, and pension benefits that have value and must be taken into account in estate planning.

Interlocutory: Provisional; not final. An interlocutory order or an interlocutory appeal concerns only a part of the issues raised in a lawsuit.

Interrogatories: Written questions asked by one party in a lawsuit for which the opposing party must provide written answers.

Intervention: An action by which a third person who may be affected by a lawsuit is permitted to become a party to the suit. Differs from the process of becoming an *amicus curiae*.

Inter Vivos Gift: A gift made during the giver's life.

Inter Vivos Trust: Another name for a *living trust*.

Intestacy Laws: See descent and distribution statutes.

Intestate: Dying without a will.

Intestate succession: The process by which the property of a person who has died without a will passes on to others according to the state's descent and distribution statutes. If someone dies without a will, and the court uses the state's intestate succession laws, an heir who receives some of the deceased's property is an *intestate heir*.

Irrevocable trust: A trust that, once set up, the grantor may not revoke.

Issue: (1) The disputed point in a disagreement between parties in a lawsuit. (2) To send out officially, as in to issue an order.

J

Joint and Several Liability: A legal doctrine that makes each of the parties who are responsible for an injury, liable for all the damages awarded in a lawsuit if the other parties responsible cannot pay.

Joint Tenancy: A form of legal co-ownership of property (also known as survivorship). At the death of one co-owner, the surviving co-owner becomes sole owner of the property. Tenancy by the entirety is a special form of joint tenancy between a husband and wife.

Judge: An elected or appointed public official with authority to hear and decide cases in a court of law. A Judge Pro Tem is a temporary judge.

Judgment: The final disposition of a lawsuit. Default judgment is a judgment rendered because of the defendant's failure to answer or appear. *Summary judgment* is a judgment given on the basis of pleadings, affidavits, and exhibits presented for the record without any need for a trial. It is used when there is no dispute as to the facts of the case and one party is entitled to a judgment as a matter of law. *Consent judgment* occurs when the provisions and terms of the judgment are agreed on by the parties and submitted to the court for its sanction and approval.

Judicial review: The authority of a court to review the official actions of other branches of government. Also, the authority to declare unconstitutional the actions of other branches.

Jurisdiction: (1) The legal authority of a court to hear and decide a case. Concurrent jurisdiction exists when two courts have simultaneous responsibility for the same case. (2) The geographic area over which the court has authority to decide cases.

Jurisprudence: The study of law and the structure of the legal system.

Jury: Persons selected according to law and sworn to inquire into and declare a verdict on matters of fact. A petit jury is an ordinary or trial jury, composed of six to twelve persons which hears either civil or criminal cases.

Jury Commissioner: The court officer responsible for choosing the panel of persons to serve as potential jurors for a particular court term.

Justiciable: Issues and claims capable of being properly examined in court.

L

Lapsed gift: A gift made in a will to a person who has died prior to the will-maker's death.

Larceny: Obtaining property by fraud or deceit.

Law: The combination of those rules and principles of conduct promulgated by legislative authority, derived from court decisions and established by local custom.

Law clerks: Persons trained in the law who assist judges in researching legal opinions.

Leading question: A question that suggests the answer desired of the witness. A party generally may not ask one's own witness leading questions. Leading questions may be asked only of hostile witnesses and on cross-examination.

Legal Aid: Professional legal services available usually to persons or organizations unable to afford such services.

Leniency: Recommendation for a sentence less than the maximum allowed.

Letters of Administration: Legal document issued by a court that shows an administrator's legal right to take control of assets in the deceased person's name.

Letters Testamentary: Legal document issued by a court that shows an executor's legal right to take control of assets in the deceased person's name.

Liable: Legally responsible.

Libel: Published words or pictures that falsely and maliciously defame a person. Libel is published defamation; *slander* is spoken.

Lien: A legal claim against another person's property as security for a debt. A lien does not convey ownership of the property, but gives the lienholder a right to have his or her debt satisfied out of the proceeds of the property if the debt is not otherwise paid.

Limine: A motion requesting that the court not allow certain evidence that might prejudice the jury.

Limited jurisdiction: Refers to courts that are limited in the types of criminal and civil cases they may hear. For example, traffic violations generally are heard by limited jurisdiction courts.

Litigant: A party to a lawsuit. Litigation refers to a case, controversy, or lawsuit.

Living trust: A trust set up and in effect during the lifetime of the grantor. Also called *inter vivos trust*.

M

Magistrate: Judicial officer exercising some of the functions of a judge. It also refers in a general way to a judge.

Malfeasance: Evil doing, ill conduct; the commission of some act which is positively prohibited by law.

Malicious prosecution: An action instituted with intention of injuring the defendant and without probable cause, and which terminates in favor of the person prosecuted.

Mandamus: A writ issued by a court ordering a public official to perform an act.

Manslaughter: The unlawful killing of another without intent to kill; either voluntary (upon a sudden impulse); or involuntary (during the commission of an unlawful act not ordinarily expected to result in great bodily harm). See also *murder*.

Mediation: A form of *alternative dispute resolution* in which the parties bring their dispute to a neutral third party, who helps them agree on a settlement.

Memorialized: In writing.

Mens Rea: The "guilty mind" necessary to establish criminal responsibility.

Miranda warning: Requirement that police tell a suspect in their custody of his or her constitutional rights before they question him or her. So named as a result of the *Miranda v. Arizona* ruling by the U.S. Supreme Court.

Misdemeanor: A criminal offense considered less serious than a felony. Misdemeanors generally are punishable by a fine or a limited local jail term, but not by imprisonment in a state penitentiary.

Mistrial: An invalid trial, caused by fundamental error.

When a mistrial is declared, the trial must start again from the selection of the jury.

Mitigating circumstances: Those which do not constitute a justification or excuse for an offense but which may be considered as reasons for reducing the degree of blame.

Mittimus: The name of an order in writing, issuing from a court and directing the sheriff or other officer to convey a person to a prison, asylum, or reformatory, and directing the jailer or other appropriate official to receive and safely keep the person until his or her fate shall be determined by due course of law.

Moot: A moot case or a moot point is one not subject to a judicial determination because it involves an abstract question or a pretended controversy that has not yet actually arisen or has already passed. Mootness usually refers to a court's refusal to consider a case because the issue involved has been resolved prior to the court's decision, leaving nothing that would be affected by the court's decision.

Motion: An oral or written request made by a party to an action before, during, or after a trial, upon which a court issues a ruling or order.

Murder: The unlawful killing of a human being with deliberate intent to kill. *Murder in the first degree* is characterized by premeditation; *murder in the second degree* is characterized by a sudden and instantaneous intent to kill or to cause injury without caring whether the injury kills or not. (See also *manslaughter*.)

N

Negligence: Failure to exercise the degree of care that a reasonable person would exercise under the same circumstances.

Next friend: One acting without formal appointment as guardian for the benefit of an infant, a person of unsound mind not judicially declared incompetent, or other person under some disability.

No Bill: This phrase, endorsed by a grand jury on the written indictment submitted to it for its approval, means that the evidence was found insufficient to indict.

No-Contest clause: Language in a will that provides

that a person who makes a legal challenge to the will's validity will be disinherited.

No-Fault proceedings: A civil case in which parties may resolve their dispute without a formal finding of error or fault.

Nolle Prosequi: Decision by a prosecutor not to go forward with charging a crime. It translates "I do not choose to prosecute." Also loosely called *nolle pros*.

Nolo contendere: A plea of no contest. In many jurisdictions, it is an expression that the matter will not be contested, but without an admission of guilt. In other jurisdictions, it is an admission of the charges and is equivalent to a guilty plea.

Notice: Formal notification to the party that has been sued in a civil case of the fact that the lawsuit has been filed. Also, any form of notification of a legal proceeding.

Nunc pro tunc: A legal phrase applied to acts which are allowed after the time when they should be done, with a retroactive effect.

Nuncupative Will: An oral (unwritten) will.

O

Oath: Written or oral pledge by a person to keep a promise or speak the truth.

Objection: The process by which one party takes exception to some statement or procedure. An objection is either sustained (allowed) or overruled by the judge.

On a Person's Own Recognizance: Release of a person from custody without the payment of any *bail* or posting of bond, upon the promise to return to court.

Opening statement: The initial statement made by attorneys for each side, outlining the facts each intends to establish during the trial.

Opinion: A judge's written explanation of a decision of the court or of a majority of judges. A dissenting opinion disagrees with the majority opinion because of the reasoning and/or the principles of law on which the decision is based. A concurring opinion agrees with the decision of the court but offers further comment. *A per*

curiam opinion is an unsigned opinion “of the court.”

Oral argument: An opportunity for lawyers to summarize their position before the court and also to answer the judges’ questions.

Order: A written or oral command from a court directing or forbidding an action.

Overrule: A judge’s decision not to allow an objection. Also, a decision by a higher court finding that a lower court decision was in error.

P

Pardon: A form of *executive clemency* preventing criminal prosecution or removing or extinguishing a criminal conviction.

Parens Patriae: The doctrine under which the court protects the interests of a juvenile.

Parole: The supervised conditional release of a prisoner before the expiration of his or her sentence. If the parolee observes the conditions, he or she need not serve the rest of his or her term.

Party: A person, business, or government agency actively involved in the prosecution or defense of a legal proceeding.

Patent: A government grant giving an inventor the exclusive right to make or sell his or her invention for a term of years.

Peremptory challenge: A challenge that may be used to reject a certain number of prospective jurors without giving a reason.

Perjury: The criminal offense of making a false statement under oath.

Permanent Injunction: A court order requiring that some action be taken, or that some party refrain from taking action. It differs from forms of temporary relief, such as a *temporary restraining order* or *preliminary injunction*.

Personal property: Tangible physical property (such as cars, clothing, furniture, and jewelry) and intangible personal property. This does not include real property

such as land or rights in land.

Personal recognizance: In criminal proceedings, the pretrial release of a defendant without bail upon his or her promise to return to court. See also *own recognizance*.

Personal representative: The person who administers an estate. If named in a will, that person’s title is an executor. If there is no valid will, that person’s title is an *administrator*.

Person in need of supervision: Juvenile found to have committed a *status offense* rather than a crime that would provide a basis for a finding of delinquency. Typical status offenses are habitual truancy, violating a curfew, or running away from home. These are not crimes, but they might be enough to place a child under supervision. In different states, status offenders might be called *children in need of supervision* or *minors in need of supervision*.

Petitioner: The person filing an action in a court of original jurisdiction. Also, the person who appeals the judgment of a lower court. The opposing party is called the *respondent*.

Plaintiff: The person who files the complaint in a civil lawsuit. Also called *the complainant*.

Plea: In a criminal proceeding, it is the defendant’s declaration in open court that he or she is guilty or not guilty. The defendant’s answer to the charges made in the indictment or information.

Plea Bargaining or Plea Negotiating: The process through which an accused person and a prosecutor negotiate a mutually satisfactory disposition of a case. Usually it is a legal transaction in which a defendant pleads guilty in exchange for some form of leniency. It often involves a guilty plea to lesser charges or a guilty plea to some of the charges if other charges are dropped. Such bargains are not binding on the court.

Pleadings: The written statements of fact and law filed by the parties to a lawsuit.

Polling the jury: The act, after a jury verdict has been announced, of asking jurors individually whether they agree with the verdict.

Pour-Over Will: A will that leaves some or all estate

assets to a trust established before the will-maker's death.

Power of Attorney: Formal authorization of a person to act in the interests of another person.

Precedent: A previously decided case that guides the decision of future cases.

Preliminary hearing: Another term for *arraignment*.

Pre-Injunction: Court order requiring action or forbidding action until a decision can be made whether to issue a permanent injunction. It differs from a *temporary restraining order*.

Preponderance of the Evidence: Greater weight of the evidence, the common standard of proof in civil cases.

Pre-Sentence Report: A report to the sentencing judge containing background information about the crime and the defendant to assist the judge in making his or her sentencing decision.

Presentment: Declaration or document issued by a grand jury that either makes a neutral report or notes misdeeds by officials charged with specified public duties. It ordinarily does not include a formal charge of crime. A presentment differs from an indictment.

Pretermitted child: A child borne after a will is executed, who is not provided for by the will. Most states have laws that provide for a share of estate property to go to such children.

Pre-trial Conference: A meeting between the judge and the lawyers involved in a lawsuit to narrow the issues in the suit, agree on what will be presented at the trial, and make a final effort to settle the case without a trial.

Prima Facie case: A case that is sufficient and has the minimum amount of evidence necessary to allow it to continue in the judicial process.

Probable Cause: A reasonable belief that a crime has or is being committed; the basis for all lawful searches, seizures, and arrests.

Probate: The court-supervised process by which a will is determined to be the will-maker's final statement regarding how the will-maker wants his or her property

distributed. It also confirms the appointment of the personal representative of the estate. Probate also means the process by which assets are gathered; applied to pay debts, taxes, and expenses of administration; and distributed to those designated as beneficiaries in the will.

Probate Court: The court with authority to supervise estate administration.

Probate Estate: Estate property that may be disposed of by a will.

Probation: An alternative to imprisonment allowing a person found guilty of an offense to stay in the community, usually under conditions and under the supervision of a probation officer. A violation of probation can lead to its revocation and to imprisonment.

Pro Bono Publico: For the public good. Lawyers representing clients without a fee are said to be working pro bono publico.

Pro Se: A Latin term meaning "on one's own behalf"; in courts, it refers to persons who present their own cases without lawyers.

Prosecutor: A trial lawyer representing the government in a criminal case and the interests of the state in civil matters. In criminal cases, the prosecutor has the responsibility of deciding who and when to prosecute.

Proximate cause: The act that caused an event to occur. A person generally is liable only if an injury was proximately caused by his or her action or by his or her failure to act when he or she had a duty to act.

Public Defender: Government lawyer who provides free legal defense services to a poor person accused of a crime.

Q

Quash: To vacate or void a summons, subpoena, etc.

R

Real Property: Land, buildings, and other improvements affixed to the land.

Reasonable Doubt: An accused person is entitled to acquittal if, in the minds of the jury, his or her guilt has not been proved beyond a “reasonable doubt”; that state of minds of jurors in which they cannot say they feel an abiding conviction as to the truth of the charge.

Reasonable Person: A phrase used to denote a hypothetical person who exercises qualities of attention, knowledge, intelligence, and judgment that society requires of its members for the protection of their own interest and the interests of others. Thus, the test of negligence is based on either a failure to do something that a reasonable person, guided by considerations that ordinarily regulate conduct, would do, or on the doing of something that a reasonable and prudent (wise) person would not do.

Rebut: Evidence disproving other evidence previously given or reestablishing the credibility of challenged evidence.

Record: All the documents and evidence plus transcripts of oral proceedings in a case.

Recuse: The process by which a judge is disqualified from hearing a case, on his or her own motion or upon the objection of either party.

Re-Direct Examination: Opportunity to present rebuttal evidence after one’s evidence has been subjected to cross-examination.

Redress: To set right; to remedy; to compensate; to remove the causes of a grievance.

Referee: A person to whom the court refers a pending case to take testimony, hear the parties, and report back to the court. A referee is an officer with judicial powers who serves as an arm of the court.

Rehearing: Another hearing of a civil or criminal case by the same court in which the case was originally heard.

Rejoinder: Opportunity for the side that opened the case to offer limited response to evidence presented during the *rebuttal* by the opposing side.

Remand: To send a dispute back to the court where it

was originally heard. Usually it is an appellate court that remands a case for proceedings in the trial court consistent with the appellate court’s ruling.

Remedy: Legal or judicial means by which a right or privilege is enforced or the violation of a right or privilege is prevented, redressed, or compensated.

Remittitur: The reduction by a judge of the damages awarded by a jury.

Removal: The transfer of a state case to federal court for trial; in civil cases, because the parties are from different states; in criminal and some civil cases, because there is a significant possibility that there could not be a fair trial in state court.

Replevin: An action for the recovery of a possession that has been wrongfully taken.

Reply: The response by a party to charges raised in a pleading by the other party.

Respondent: The person against whom an appeal is taken. See *petitioner*.

Rest: A party is said to *rest* or *rest its case* when it has presented all the evidence it intends to offer.

Restitution: Act of giving the equivalent for any loss, damage or injury.

Retainer: Act of the client in employing the attorney or counsel, and also denotes the fee which the client pays when he or she retains the attorney to act for them.

Return: A report to a judge by police on the implementation of an arrest or search warrant. Also, a report to a judge in reply to a subpoena, civil or criminal.

Reverse: An action of a higher court in setting aside or revoking a lower court decision.

Reversible Error: A procedural error during a trial or hearing sufficiently harmful to justify reversing the judgment of a lower court.

Revocable Trust: A trust that the grantor may change or revoke.

Revoke: To cancel or nullify a legal document.

Robbery: Felonious taking of another's property, from his or her person or immediate presence and against his or her will, by means of force or fear. It differs from *larceny*.

Rules of Evidence: Standards governing whether evidence in a civil or criminal case is admissible.

S

Search warrant: A written order issued by a judge that directs a law enforcement officer to search a specific area for a particular piece of evidence.

Secured Debt: In bankruptcy proceedings, a debt is secured if the debtor gave the creditor a right to repossess the property or goods used as collateral.

Self-defense: Claim that an act otherwise criminal was legally justifiable because it was necessary to protect a person or property from the threat or action of another.

Self-incrimination, privilege against: The constitutional right of people to refuse to give testimony against themselves that could subject them to criminal prosecution. The right is guaranteed in the Fifth Amendment of the U.S. Constitution. Asserting the right is often referred to as *taking the Fifth*.

Self-proving Will: A will whose validity does not have to be testified to in court by the witnesses to it, since the witnesses executed an *affidavit* reflecting proper execution of the will prior to the maker's death.

Sentence: The punishment ordered by a court for a defendant convicted of a crime. A concurrent sentence means that two or more sentences would run at the same time. A consecutive sentence means that two or more sentences would run one after another.

Sentence report: A document containing background material on a convicted person. It is prepared to guide the judge in the imposition of a sentence. Sometimes called a *presentence report*.

Sequester: To separate. Sometimes juries are separated from outside influences during their deliberations. For example, this may occur during a highly publicized trial.

Sequestration of witnesses: Keeping all witnesses (except plaintiff and defendant) out of the courtroom except for their time on the stand, and cautioning them not to discuss their testimony with other witnesses. Also called separation of witnesses. This prevents a witness from being influenced by the testimony of a prior witness.

Service: The delivery of a legal document, such as a complaint, summons, or subpoena, notifying a person of a lawsuit or other legal action taken against him or her. Service, which constitutes formal legal notice, must be made by an officially authorized person in accordance with the formal requirements of the applicable laws.

Settlement: An agreement between the parties disposing of a lawsuit.

Settlor: The person who sets up a trust. Also called the *grantor*.

Sidebar: A conference between the judge and lawyers, usually in the courtroom, out of earshot of the jury and spectators.

Slander: False and defamatory spoken words tending to harm another's reputation, business, or means of livelihood. Slander is spoken defamation; *libel* is published.

Small Claims Court: A court that handles civil claims for small amounts of money. People often represent themselves rather than hire an attorney.

Sovereign Immunity: The doctrine that the government, state or federal, is immune to lawsuit unless it gives its consent.

Specific Performance: A remedy requiring a person who has breached a contract to perform specifically what he or she has agreed to do. Specific performance is ordered when damages would be inadequate compensation.

Spendthrift trust: A trust set up for the benefit of someone who the grantor believes would be incapable of managing his or her own financial affairs.

Standing: The legal right to bring a lawsuit. Only a person with something at stake has standing to bring a lawsuit.

Stare Decisis: The doctrine that courts will follow principles of law laid down in previous cases. Similar to *precedent*.

Status Offenders: Youths charged with the status of being beyond the control of their legal guardian or are habitually disobedient, truant from school, or having committed other acts that would not be a crime if committed by an adult. They are not delinquents (in that they have committed no crime), but rather are persons in need of supervision, minors in need of supervision, or children in need of supervision, depending on the state in which they live. Status offenders are placed under the supervision of the juvenile court.

Statute of Limitations: The time within which a plaintiff must begin a lawsuit (in civil cases) or a prosecutor must bring charges (in criminal cases). There are different statutes of limitations at both the federal and state levels for different kinds of lawsuits or crimes.

Statutory Construction: Process by which a court seeks to interpret the meaning and scope of legislation.

Statutory Law: Law enacted by the legislative branch of government, as distinguished from case law or *common law*.

Stay: A court order halting a judicial proceeding.

Stipulation: An agreement by attorneys on both sides of a civil or criminal case about some aspect of the case; e.g., to extend the time to answer, to adjourn the trial date, or to admit certain facts at the trial.

Strike: Highlighting in the record of a case, evidence that has been improperly offered and will not be relied upon.

Sua Sponte: A Latin phrase which means on one's own behalf. Voluntary, without prompting or suggestion.

Subpoena: A court order compelling a witness to appear and testify.

Subpoena Duces Tecum: A court order commanding a witness to bring certain documents or records to court.

Summary judgment: A decision made on the basis of statements and evidence presented for the record

without a trial. It is used when there is no dispute as to the facts of the case, and one party is entitled to judgment as a matter of law.

Summons: A notice to a defendant that he or she has been sued or charged with a crime and is required to appear in court. A jury *summons* requires the person receiving it to report for possible jury duty.

Support trust: A trust that instructs the trustee to spend only as much income and principal (the assets held in the trust) as needed for the beneficiary's support.

Suppress: To forbid the use of evidence at a trial because it is improper or was improperly obtained. See also *exclusionary rule*.

Surety Bond: A bond purchased at the expense of the estate to insure the executor's proper performance. Often called a *fidelity bond*.

Survivorship: Another name for *joint tenancy*.

Sustain: A court ruling upholding an objection or a motion.

T

Tangible Personal Property Memorandum (TPPM):

A legal document that is referred to in a will and used to guide the distribution of tangible personal property.

Temporary Relief: Any form of action by a court granting one of the parties an order to protect its interest pending further action by the court.

Temporary Restraining Order: A judge's order forbidding certain actions until a full hearing can be held. Usually of short duration. Often referred to as a *TRO*.

Testamentary Capacity: The legal ability to make a will.

Testamentary trust: A trust set up by a will.

Testator: Person who makes a will (female: testatrix).

Testimony: The evidence given by a witness under

oath. It does not include evidence from documents and other physical evidence.

Third Party: A person, business, or government agency not actively involved in a legal proceeding, agreement, or transaction.

Third-Party Claim: An action by the defendant that brings a third party into a lawsuit.

Title: Legal ownership of property, usually real property or automobiles.

Tort: An injury or wrong committed on the person or property of another. A tort is an infringement on the rights of an individual, but not founded on a contract. The most common tort action is a suit for damages sustained in an automobile accident.

Transcript: A written, word-for-word record of what was said, either in a proceeding such as a trial or during some other conversation, as in a transcript of a hearing or oral deposition.

Trust: A legal device used to manage real or personal property, established by one person (the *grantor* or *settlor*) for the benefit of another (the *beneficiary*). A third person (the *trustee*) or the grantor manages the trust.

Trust Agreement or Declaration: The legal document that sets up a living trust. Testamentary trusts are set up in a will.

Trustee: The person or institution that manages the property put in trust.

U

Unlawful Detainer: A detention of real estate without the consent of the owner or other person entitled to its possession.

Unsecured: In bankruptcy proceedings, for the purposes of filing a claim, a claim is unsecured if there is no collateral, or to the extent the value of collateral is less than the amount of the debt.

Usury: Charging a higher interest rate or higher fees than the law allows.

V

Vacate: To set aside. To vacate a judgment is to set aside that judgment.

Venire: A writ summoning persons to court to act as jurors. Also refers to the people summoned for jury duty.

Venue: The proper geographical area (county, city, or district) in which a court with jurisdiction over the subject matter may hear a case.

Verdict: A conclusion, as to fact or law, that forms the basis for the court's judgment. A *general verdict* is a jury's finding for or against a plaintiff after determining the facts and weighing them according to the judge's instructions regarding the law.

Voir Dire: Process of questioning potential jurors so that each side may decide whether to accept or oppose individuals for jury service.

W

Waiver: Intentionally giving up a right.

Waiver of Immunity: A means authorized by statute by which a witness, before testifying or producing evidence, may relinquish the right to refuse to testify against himself or herself, thereby making it possible for his or her testimony to be used against him or her in future proceedings.

Warrant: Most commonly, a court order authorizing law enforcement officers to make an arrest or conduct a search. An affidavit seeking a warrant must establish probable cause by detailing the facts upon which the request is based.

Will: A legal declaration that disposes of a person's property when that person dies.

Without Prejudice: A claim or cause dismissed without prejudice may be the subject of a new lawsuit.

With Prejudice: Applied to orders of judgment dismissing a case, meaning that the plaintiff is forever barred from bringing a lawsuit on the same claim or cause.

Witness: A person who testifies to what he or she has seen, heard, or otherwise experienced. Also, a person who observes the signing of a will and is competent to testify that it is the will-maker's intended last will and testament.

Writ: A judicial order directing a person to do something.

Writ of Certiorari: An order issued by the Supreme Court directing the lower court to transmit records for a case for which it will hear on appeal.

APPENDIX #12

LATE OPENING AND EARLY CLOSING DUE TO INCLEMENT WEATHER

LATE OPENING AND EARLY CLOSING DUE TO INCLEMENT WEATHER

If hazardous conditions arise due to inclement weather, the Chief Judge of the U. S. District Court will generally determine whether such weather conditions warrant either abbreviated business hours or a complete closing of the court. In some instances, however, there may be a variance in business hours between the Baltimore and Greenbelt divisions of the court. Therefore, to insure that each deputy follows proper directives regarding business hours under hazardous weather conditions, the telephone broadcast message system and group voice box system should be utilized. Instructions are as follows:

- Dial 410-962-2600 (Baltimore employees)
Dial 301-344-0660 (Greenbelt employees)
When the automated operator comes on, hit the * key, then the # key;
- Upon being asked to dial the mailbox number, the deputy should dial his/her extension number;
- The deputy will then be asked to dial his/her access code. This is the four digit number selected to access his/her voice mail. Dial those four numbers. If a message is recorded, it will be activated upon completion of dialing.

If there is no message, the office will be functioning under normal hours. Each deputy should be aware that the broadcast message will provide the office hours that each deputy will be responsible for. The message on the broadcast system may include different hours than those provided by the radio station or by the Office of Personnel Management for certain federal government employees in the Washington, D.C. area (a source the Greenbelt division sometimes follows).